

Michigan Register

Issue No. 13 – 2001 (Published August 1, 2001)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

**Published pursuant to § 24.208 of
The Michigan Compiled Laws**



Issue No. 13 — 2001

(This issue, published August 1, 2001, contains
documents filed from July 1, 2001 to July 15, 2001)

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Office of Regulatory Reform

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John Engler, Governor



Dick Posthumus, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
 - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
 - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
 - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year. Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: www.state.mi.us/orr

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director
Office of Regulatory Reform

2001 PUBLICATION SCHEDULE

| Issue No. | Closing Date for Filing or Submission Of Documents (5 p.m.) | Publication Date |
|-----------|---|--------------------|
| 2001 | | |
| 1 | January 16, 2001 | February 1, 2001 |
| 2 | February 1, 2001 | February 15, 2001 |
| 3 | February 15, 2001 | March 1, 2001 |
| 4 | March 1, 2001 | March 15, 2001 |
| 5 | March 15, 2001 | April 1, 2001 |
| 6 | April 1, 2001 | April 15, 2001 |
| 7 | April 15, 2001 | May 1, 2001 |
| 8 | May 1, 2001 | May 15, 2001 |
| 9 | May 15, 2001 | June 1, 2001 |
| 10 | June 1, 2001 | June 15, 2001 |
| 11 | June 15, 2001 | July 1, 2001 |
| 12 | July 1, 2001 | July 15, 2001 |
| 13 | July 15, 2001 | August 1, 2001 |
| 14 | August 1, 2001 | August 15, 2001 |
| 15 | August 15, 2001 | September 1, 2001 |
| 16 | September 1, 2001 | September 15, 2001 |
| 17 | September 15, 2001 | October 1, 2001 |
| 18 | October 1, 2001 | October 15, 2001 |
| 19 | October 15, 2001 | November 1, 2001 |
| 20 | November 1, 2001 | November 15, 2001 |
| 21 | November 15, 2001 | December 1, 2001 |
| 22 | December 1, 2001 | December 15, 2001 |
| 23 | December 15, 2001 | January 1, 2002 |
| 24 | January 1, 2002 | January 15, 2002 |

CONTENTS

ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

Department of Consumer and Industry Services

Director's Office (ORR # 2001-013)

Illumination.....2-3

Department of Consumer and Industry Services

Bureau of Safety and Regulation (ORR # 2001-018)

Bloodborne Infectious Diseases4-9

PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

Department of Agriculture

Pesticide and Plant Pest Management Division (ORR # 2000-089)

Regulation No. 628 Seed Potato Certification.....11-20

Department of Agriculture

Pesticide and Plant Pest Management Division (ORR # 2000-089)

Notice of Public Hearing21-22

Department of Consumer and Industry Services

Public Service Commission (ORR # 2001-009)

Telecommunication Services.....23-36

Department of Consumer and Industry Services

Public Service Commission (ORR # 2001-009)

Notice of Public Hearing37-38

Department of Consumer and Industry Services

Bureau of Health Services (ORR # 2001-037)

Psychology.....39

Department of Consumer and Industry Services

Bureau of Health Services (ORR # 2001-037)

Notice of Public Hearing40

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

Department of Consumer and Industry Services

Construction Safety Standard (ORR # 1998-098)

Part 6. Personal Protective Equipment42-45

**OPINIONS OF THE
ATTORNEY GENERAL**

AG Opinion No. 7085

Cities, Elections, Incompatibility, Public Employees,

and Public Offices and Officers47-49

**ENROLLED SENATE AND HOUSE
BILLS SIGNED INTO LAW OR VETOED**

Table (2001 Session).....51-55

MICHIGAN ADMINISTRATIVE CODE TABLE

Table (2001 Session).....57-63

CUMULATIVE INDEX

Cumulative Index (2001)64-69

ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

**OCCUPATIONAL HEALTH STANDARDS FOR GENERAL INDUSTRY
GENERAL WORKPLACE REQUIREMENTS**

Filed with the Secretary of State on July 9, 2001.

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 14 and 24 of 1974 PA 154 and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 408.1014, 408.1024, 330.3101, and 445.2001)

R 325.47801, R 325.50902, and R 325.51004 are added to the Michigan Administrative Code as follows:

ILLUMINATION

R 325.47801 Illumination level generally.

Rule 1. (1) An employer shall ensure that the level of illumination is adequate as determined by the director for the task being performed.

(2) O.H. rules 4102, 4103, 4104, and 4105 are rescinded.

(3) This rule replaces O.H. rules 4101 to 4105.

(4) R 325.51004 and R 325.50902 replace O.H. Rule 4106.

R 325.50902 Illumination for pulpwood logging.

Rule 1. With respect to pulpwood logging operations subject to O.H. rule 5006, an employer shall ensure that adequate lighting is provided on roads and trails if night work is necessary for pulpwood harvesting.

R 325.51004 Illumination for sawmills.

Rule 1. All of the following provisions apply to sawmill operations subject to O.H. rule 5005.

(a) "Boom" means logs or timbers which are fastened together end to end and which are used to contain floating logs. The term includes enclosed logs.

(b) With respect to building facilities and isolated equipment, both of the following provisions apply for general lighting:

(i) An employer shall ensure that illumination is provided and designed to supply adequate general and local lighting to rooms, buildings, and work areas when in use.

(ii) The adequacy and effectiveness of illumination will be determined using all of the following factors:

(A) The quantity of light in foot-candle intensity is sufficient for the work being done.

(B) The quality of the light is free from glare, and has correct direction, diffusion, and distribution.

(C) Shadows and extreme contrasts are avoided or kept to a minimum.

(c) Work areas under mills shall be as evenly surfaced as local conditions permit. Work areas under mills shall not have unnecessary obstructions and shall have lighting facilities in accordance with American national standard for industrial lighting A11.1-1965, which is adopted by reference in this rule. Printed copies of ANSI A11.1-1965 are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 80112, telephone number 1-800-854-7179, Website: www.global.ihs.com, at a cost as of the time of adoption of these rules of \$54.00 or is available for inspection and purchase at the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909.

(d) All stairways shall be adequately lighted as prescribed in subdivision (b)(i) of this subrule.

(e) Fuel houses, bunkers, hoppers, and bins shall have adequate exits and lighting, and all necessary safety devices shall be provided and persons entering fuel houses, bunkers, hoppers, and bins shall use the safety devices.

(f) Log dumps, booms, ponds, or storage areas used at night shall be illuminated in accordance with the requirements of American National Standard A11.1-1965 (R-1970) Standard Practice for Industrial Lighting, which is adopted by reference in subdivision (c) of this subrule.

ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

**OCCUPATIONAL HEALTH STANDARDS--BLOODBORNE INFECTIOUS
DISEASES**

Filed with the Secretary of State on June 28, 2001.

These rules take effect on October 18, 2001

(By authority conferred on the director of the department of consumer and industry services by sections 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024, and Executive Reorganization Order Nos. 1996-1 and 1996-2, MCL 330.3101 and 445.2001)

R 325.70001, R 325.70002, R 325.70004, and R 325.70015 of the Michigan Administrative Code are amended as follows:

R 325.70001 Scope.

Rule 1. These rules apply to all employers that have employees with occupational exposure to blood and other potentially infectious material.

R 325.70002 Definitions.

Rule 2. As used in these rules:

- (a) "Act" means 1974 PA 154, MCL 408.1001 et seq.
- (b) "Biologically hazardous conditions" means equipment, containers, rooms, materials, experimental animals, animals infected with HBV or HIV virus, or combinations thereof that contain, or are contaminated with, blood or other potentially infectious material.
- (c) "Blood" means human blood, human blood components, and products made from human blood.
- (d) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include hepatitis B virus (HBV) and human immunodeficiency virus (HIV).
- (e) "Clinical laboratory" means a workplace where diagnostic or other screening procedures are performed on blood or other potentially infectious material.
- (f) "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious material on an item or surface.
- (g) "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or which may contain sharps.
- (h) "Contaminated sharps" means any contaminated object that can penetrate the skin, including any of the following:

- (i) Needles.
- (ii) Scalpels.
- (iii) Broken glass.
- (iv) Broken capillary tubes.
- (v) Exposed ends of dental wires.
- (i) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
- (j) "Department" means the department of consumer and industry services.
- (k) "Director" means the director of the department or his or her designee.
- (l) "Disinfect" means to inactivate virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms, on inanimate objects.
- (m) "Engineering controls" means controls, for example, sharps disposal containers, self-sheathing needles, or safer medical devices, such as sharps with engineered sharps injury protections and needleless systems, that isolate or remove the bloodborne pathogen hazard from the workplace.
- (n) "Exposure" means reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties. "Exposure" does not include incidental exposures which may take place on the job, which are neither reasonably nor routinely expected, and which the worker is not required to incur in the normal course of employment.
- (o) "Exposure incident" means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other potentially infectious material that results from the performance of an employee's duties.
- (p) "Handwashing facilities" means facilities that provide an adequate supply of running, potable water, soap, and single-use towels or a hot-air drying machine.
- (q) "Licensed health care professional" means a person whose legally permitted scope of practice allows him or her to independently perform the activities required by R 325.70013 concerning hepatitis B vaccination and post-exposure evaluation and follow-up.
- (r) "Needleless systems" means a device that does not use needles for any of the following:
 - (i) The collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established.
 - (ii) The administration of medication or fluids.
 - (iii) Any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps.
- (s) "Other potentially infectious material" means any of the following:
 - (i) Any of the following human body fluids:
 - (A) Semen.
 - (B) Vaginal secretions.
 - (C) Amniotic fluid.
 - (D) Cerebrospinal fluid.
 - (E) Peritoneal fluid.
 - (F) Pleural fluid.
 - (G) Pericardial fluid.

- (H) Synovial fluid.
- (I) Saliva in dental procedures.
- (J) Any body fluid that is visibly contaminated with blood.
- (K) All body fluids in situations where it is difficult or impossible to differentiate between body fluids.
- (ii) Any unfixed tissue or organ, other than intact skin, from a living or dead human.
- (iii) Cell or tissue cultures that contain HIV, organ cultures, and culture medium or other solutions that contain HIV or HBV; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.
- (t) "Parenteral" means exposure occurring as a result of piercing mucous membrane or the skin barrier, such as exposure through subcutaneous, intramuscular, intravenous, or arterial routes resulting from needlesticks, human bites, cuts, and abrasions.
- (u) "Personal protective equipment" or "PPE" means specialized clothing or equipment that is worn by an employee to protect him or her from a hazard. General work clothes, such as uniforms, pants, shirts, or blouses, that are not intended to function as protection against a hazard are not considered to be personal protective equipment.
- (v) "Production facility" means a facility that is engaged in the industrial-scale, large-volume production of HIV or HBV or in the high-concentration production of HIV or HBV.
- (w) "Regulated waste" means any of the following:
 - (i) Liquid or semiliquid blood or other potentially infectious material.
 - (ii) Contaminated items that would release blood or other potentially infectious material in a liquid or semiliquid state if compressed.
 - (iii) Items which are caked with dried blood or other potentially infectious material and which are capable of releasing these materials during handling.
 - (iv) Contaminated sharps.
 - (v) Pathological and microbiological waste that contains blood or other potentially infectious material.
- (x) "Research laboratory" means a laboratory that produces or uses research laboratory-scale amounts of HIV or HBV. A research laboratory may produce high concentrations of HIV or HBV, but not in the volume found in a production facility.
- (y) "Sharps with engineered sharps injury protections" means a nonneedle sharp or a needle device which is used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, and which has a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident.
- (z) "Source individual" means any living or dead individual whose blood or other potentially infectious material may be a source of occupational exposure to an employee. Examples of a source individual include all of the following:
 - (i) A patient of a hospital or clinic.
 - (ii) A client of an institution for the developmentally disabled.
 - (iii) A victim of trauma.
 - (iv) A client of a drug or alcohol treatment facility.
 - (v) A resident of a hospice or nursing home.
 - (vi) Human remains.
 - (vii) An individual who donates or sells his or her blood or blood components.

(aa) "Standard operating procedures (SOPs)" means any of the following that address the performance of work activities so as to reduce the risk of exposure to blood and other potentially infectious material:

- (i) Written policies.
- (ii) Written procedures.
- (iii) Written directives.
- (iv) Written standards of practice.
- (v) Written protocols.
- (vi) Written systems of practice.
- (vii) Elements of an infection control program.

(bb) "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.

(cc) "Universal precautions" means a method of infection control that treats all human blood and other potentially infectious material as capable of transmitting HIV, HBV, and other bloodborne pathogens.

(dd) "Work practices" means controls that reduce the likelihood of exposure to bloodborne pathogens by altering the manner in which a task is performed.

R 325.70004 Exposure control plan.

Rule 4. (a) If an employee is determined to be in category A, then an employer shall establish a written exposure control plan to minimize or eliminate employee exposure.

(b) An exposure control plan shall contain all of the following information:

- (i) The exposure determination required by R 325.70003(1).
- (ii) The schedule and method of implementation for each of the applicable rules of these rules.
- (iii) The contents or a summary of the training program required by R 325.70016.
- (iv) The procedures for the evaluation of circumstances surrounding exposure incidents as required by R 325.70013(5).
- (v) Task-specific standard operating procedures (SOPs) that address all of the following areas:
 - (A) Employee recognition of reasonably anticipated exposure to blood and other potentially infectious material.
 - (B) Appropriate selection, use, maintenance, and disposal of personal protective equipment.
 - (C) Contingency plans for foreseeable circumstances that prevent following the recommended SOPs.
- (c) General employer policies or task-specific SOPs shall address the management of inadvertent exposures such as needlesticks or mucus membrane exposures.
- (d) The exposure control plan shall be reviewed at least annually and updated as necessary. A review shall consider changes in employees' tasks and procedures and the latest information from the centers for disease control or the department. See appendix A for addresses of these agencies. The review and update of the exposure control plans shall comply with both of the following provisions:
 - (i) Reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens.

- (ii) Document annually consideration and implementation of appropriate commercially available and effective safer medical devices designed to eliminate or minimize occupational exposure.
- (e) An employer shall ensure that only a person who has knowledge of applicable control practices is authorized to write and to review an exposure control plan.
- (f) An employer shall ensure that the exposure control plan is made available to the director or a representative of the director for examination and copying upon request.
- (g) An employer shall ensure that a copy of the exposure control plan is accessible to category A employees in accordance with R 325.3451 et seq.
- (h) An employer, who is required to establish an exposure control plan shall solicit input from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps in the identification, evaluation, and selection of effective engineering and work practice controls and shall document the solicitation in the exposure control plan.

R 325.70015 Recordkeeping.

- Rule 15. (1) An employer shall establish and maintain medical records for each category A employee in accordance with R 325.3451 et seq.
- (2) An employer shall ensure that medical records contain, at a minimum, all of the following information:
- (a) The name and social security number of the employee.
 - (b) A copy of the employee's hepatitis B vaccination status, including the dates administered and medical records relating to the employee's ability to receive a vaccination as required by R 325.70013.
 - (c) A copy of the medical history and all results of physical examinations, medical testing, and follow-up procedures as they relate to either of the following:
 - (i) The employee's ability to wear protective clothing and equipment and receive vaccination.
 - (ii) Postexposure evaluation after an occupational exposure incident.
 - (d) The employer's copy of the physician's written opinion.
 - (e) A copy of the information provided to the physician as required by R 325.70013(6).
- (3) An employer shall assure that employee medical records that are required by this rule are kept confidential and are not disclosed or reported without the employee's express written consent to any person within or outside the workplace, except as required by this rule or as may be required or permitted by law.
- (4) An employer shall maintain employee medical records for not less than the duration of employment plus 30 years in accordance with R 325.3451 et seq.
- (5) An employer shall develop and maintain training records for each category A employee. Training records shall be maintained for 3 years beyond the date that the training occurred.
- (6) Training records shall include all of the following information:
- (a) The dates of the training sessions.
 - (b) The contents or a summary of the training sessions.
 - (c) The names and qualifications of persons who conduct the training.
 - (d) The names and job titles of all persons who attend the training sessions.

(7) An employer shall assure that all records that are required to be maintained by these rules shall be made available, upon request, to representatives of the department or the director for examination and copying.

(8) An employer shall ensure that employee training records are provided, upon request, for examination and copying to employees, employee representatives, and the director in accordance with R 325.3451 et seq.

(9) An employer shall ensure that employee medical records are provided, upon request, for examination and copying to the subject employee, to anyone who has the written consent of the subject employee, and to the director in accordance with R 325.3451 et seq.

(10) An employer shall comply with the requirements that involve the transfer of records set forth in R 325.3451 et seq.

(11) If an employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, then the employer shall notify the director, not less than 3 months before disposing of the records, and shall transmit the records to the director if required by the director to do so within the 3-month period.

(12) All of the following provisions apply to a sharps injury log:

(a) An employer shall establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps. The information in the sharps injury log shall be recorded and maintained in a manner that protects the confidentiality of the injured employee. At a minimum, a sharps injury log shall contain all of the following information:

(i) The type and brand of device involved in the incident.

(ii) The work unit or work area where the exposure incident occurred.

(iii) An explanation of how the incident occurred.

(b) The requirement to establish and maintain a sharps injury log applies to any employer who is required to maintain a log of occupational injuries and illnesses under R 408.22101 et seq., being Part 11. Recording and Reporting of Occupational Injuries and Illnesses.

(c) A sharps injury log shall be maintained for the period required by R 408.22101 et seq., Part 11. Recording and Reporting of Occupational Injuries and Illnesses.

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

** * **

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF AGRICULTURE

PESTICIDE AND PLANT PEST MANAGEMENT DIVISION

REGULATION NO. 628. SEED POTATO CERTIFICATION

Filed with the Secretary of State on
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of agriculture by section 2 of 1959 PA 221, MCL 286.72)

R 285.628.1, R 285.628.2, R 285.628.4, R 285.628.5, R 285.628.5a, R 285.628.8, R 285.628.9, and R 285.628.11 of the Michigan Administrative Code, appearing on page 52 of the 1980 Annual Supplement to the 1979 Michigan Administrative Code and pages 188 to 192 of the 1990 Annual Supplement to the Code, are amended and R 285.628.4a and R 285.628.6 of the Code are rescinded as follows:

R 285.628.1 Definitions.

Rule 1. As used in these rules:

(a) "Certifiable seed potatoes" means seed potatoes ~~which are eligible for certification as clones, clone increase, premier foundation, foundation, or certified seed,~~ which meet or exceed the standards established in these rules, ~~and~~ which are produced and stored as required by these rules, ~~AND WHICH. Certifiable seed potatoes may also~~ originate from a state-approved laboratory or greenhouse program that involves in vitro techniques of propagation and the subsequent production of plants or tubers under a controlled environment. Seed stock produced under these controlled conditions shall be designated ~~pre~~nuclear. Seed originating from this program will be produced in a limited generation system of March 20, 2001 ~~nuclear, generation I, generation II, generation III, generation IV, and generation V seed.~~ FOUNDATION-FIELD YEARS 1 THROUGH 5, AND CERTIFIED FIELD YEARS 1 THROUGH 6. ~~Nuclear seed~~ FOUNDATION-FIELD YEAR 1, is the first field progeny of NUCLEAR seed produced in a laboratory or greenhouse program. Initial explants shall be screened for the presence of pathogens by using accepted techniques.

(b) "Certification" means the act of verifying compliance with the standards or requirements specified in the regulations governing the production of seed potatoes. Except as otherwise specified, the measurement method or basis for determining compliance with the standards is visual inspection of the growing grounds and crops thereon or harvested therefrom as described in the regulations. "Certification" does not constitute a guarantee or warranty or representation that the seed potatoes to which the indicia of certification (certification tags,

seals, bulk certificates) are attached, or which are otherwise represented as certified, are merchantable or fit for a particular purpose.

(c) "Certified seed" means A CLASS OF SEED WHICH MEETS THE DISEASE AND VARIETAL TOLERANCES ESTABLISHED BY THESE RULES FOR FIELD YEAR 1 THROUGH FIELD YEAR 6 AND WHICH IS the progeny of foundation seed or the progeny of seed produced in another state or country that is certified as foundation seed or a higher class by an official seed-certifying agency in the other state or country using standards comparable to the standards established in these rules. CERTIFIED SEED FROM OTHER STATES OR COUNTRIES THAT IS TO BE ENTERED FOR CERTIFICATION IN MICHIGAN MUST MEET OR EXCEED MICHIGAN'S CERTIFIED SEED STANDARDS.

(D) COMMERCIAL POTATO PRODUCTION?MEANS PRODUCTION OF POTATOES FOR OTHER THAN CERTIFIED SEED PURPOSES.

(E) "FIELD YEAR" MEANS A SEED POTATO CLASSIFICATION DESIGNATING THE NUMBER OF YEARS A PARTICULAR LOT HAS BEEN GROWN IN THE FIELD AFTER GREENHOUSE PROPAGATION.

~~(d)~~ (F) "Foundation seed" means the progeny of ~~premier foundation~~ NUCLEAR seed or a comparable seed class approved by the certifying agency. FOUNDATION SEED SHALL MEET THE DISEASE AND VARIETAL TOLERANCES ESTABLISHED IN THESE RULES FOR FIELD YEAR 1 THROUGH FIELD YEAR 5.

~~(f)~~ "Premier foundation seed" means the progeny of seed potatoes produced in a program of hill selection and clonal increase or a comparable seed class approved by the certifying agency.

(g) ~~Pre-nuclear~~ NUCLEAR seed stock" means propagation material, including mini-tubers and plantlets, which originated in a state-approved laboratory or greenhouse program that involves in vitro techniques and which is grown under controlled conditions.

~~(e)~~ (H) "Operation" means a seed potato enterprise where the lowest class of seed planted is certified, ~~or generation V~~. FIELD YEAR 6. It includes all land, equipment, storages, AND facilities, ~~and laborers~~ used to produce certified seed.

~~(h)~~ (I) "Seed lot" means all the seed potatoes of the same variety which are of a single class, which are of a specific seed source, and which are harvested from a field or stored together in a specific storage facility.

~~(j)~~ (J) "Seed potato" means the tuber that is used for the reproduction of the potato.

~~(j)~~ (K) "Seed potatoes eligible for certification" means any of the following:

(i) Any potato variety that has been released, named, and had its description published by the potato association of America, United States department of agriculture, or a recognized state agricultural experiment station.

(ii) ~~Unnamed experimental seedlings and named varieties~~ CULTIVARS that do not have published descriptions, such as advanced lines from breeding programs and ~~patented~~ PROTECTED varieties, if the seed source is approved by the official seed-certifying agency and a plant and tuber description is provided to the official seed-certifying agency.

(iii) Lines, selections, and transgenic seed stocks which are derived from previously named and described varieties, which enter an approved tissue culture program, and which carry a trait or traits that are not visibly certifiable if the lineage is clearly substantiated by signed affidavit.

~~(L)~~ (L) "Separate operation" means a distinct production unit which has a unique and dedicated storage facility and which has equipment that is assigned only to that operation. Separate operations shall be designated at the time of application for certification.

~~(M)~~ (M) "Tolerance" means a permissible allowance for a disease, varietal mixture, or grade defect as specified in the regulations governing the certification of seed potatoes.

R 285.628.2 Designation of official seed-certifying agency.

Rule 2. The Michigan ~~crop improvement association~~ SEED POTATO ASSOCIATION is designated as the official seed-certifying agency of the department of agriculture for the purpose of assisting and advising the department in carrying out the provisions of ~~Act No. 221 of the Public Acts of 1959, as amended, being 286.71 to 286.75 of the Michigan Compiled Laws, 1959 PA 221, MCL ET SEQ. and these rules.~~

R 285.628.4 Conditions for certification.

Rule 4. (1) A seed lot that is eligible for certification shall not be certified if any of the following conditions exist:

(a) Less than all of the acreage of potatoes grown by the applicant is planted to ~~nuclear, generation I, generation II, generation III, generation IV, generation V, premier foundation, foundation;~~ foundation; or certified seed THAT MEETS MICHIGAN STANDARDS and entered for inspection.

(b) The seed lot is planted less than 5 feet from other potatoes that are part of the certification program or less than 50 feet from other potatoes that are not part of a certification program.

(c) The seed lot is grown in a field in which weeds, insect injury, spray damage, disease, or any other factor that prevents the adequate inspection or production of certifiable seed potatoes is present.

(d) The seed lot is planted on land USED FOR COMMERCIAL POTATO PRODUCTION OR that has been exposed to infection from bacterial ring rot during the preceding 2 growing seasons.

(e) The seed lot has been exposed to bacterial ring rot infection before, during, or after harvest.

(f) The seed lot is stored, graded, or handled in storage facilities that contain potatoes that were not field-inspected or potatoes that were rejected for the presence of bacterial ring rot.

(g) Severe FOLIAR DISEASES INCLUDING late blight, EARLY BLIGHT, AND WILT DISEASES SUCH AS VERTICILLIUM, blackleg, AND FUSARIUM; frost injury, or any other condition that renders the seed lot undesirable for use as seed is present.

(h) Bacterial ring rot is present in a seed lot in the operation. All seed stocks of that lot are to be removed from the operation. All equipment and facilities that may have come in contact with this seed shall be cleaned and disinfected. The first lot of seed cut or planted, or cut and planted, after the infected lot is not certifiable and is not eligible for sale as certified seed for 1 growing season. These lots may be retained in the operation in the certified inspection system and may be reentered as seed that is eligible for certification the following year if bacterial ring rot is not noted. The classification level for these lots shall be retained under the normal generation system as if they were eligible for certification. All other seed lots in the operation may be certified, but shall not be sold for future seed

propagation for 1 growing season. All shipping and inspection documents for these lots that are sold during the first year after disease identification shall indicate that the seed is not to be used for seed propagation. If bacterial ring rot is detected in an operation in more than 1 seed lot in the same year or in 1 seed lot 2 of 3 consecutive years, THEN all seed stocks shall be removed from the operation and all equipment and facilities shall be cleaned and disinfected before further certification will be issued. If bacterial ring rot is detected in an operation in more than 1 seed lot in the same year or in 1 seed lot 2 of 3 consecutive years or noncertified production occurred in the previous year of operation, then seed potatoes ~~may~~ WILL NOT be approved for sale or transfer from the operation ~~for future~~ TO OTHER seed propagation OPERATIONS FOR 2 GROWING SEASONS. ~~according to the following schedule:~~

- ~~(i) First year certified, or generation V seed.~~
- ~~(ii) Second year foundation FIELD YEAR 5, or generation IV seed.~~
- ~~(iii) Third year FOUNDATION FIELD YEAR 4 OR HIGHER CLASSES OF SEED.~~ premier foundation, generation III, or higher classes of seed. Cutting and planting equipment is to be thoroughly cleaned and disinfected between lots and the disinfection shall be documented for future reference by the official seed-certifying agency. This documentation shall be part of the application for certification. Materials that are used to disinfect cutting and planting equipment shall be of a type LABELED FOR BACTERIAL DISEASE CONTROL. ~~approved for that purpose by Michigan state university.~~
- (i) Seed lots which are eligible for sale or transfer and which have not been winter-tested or laboratory-tested OR FOR WHICH A SAMPLE OR SAMPLES HAVE NOT BEEN SUBMITTED FOR WINTER TESTING by an organization approved by the official seed-certifying agency or the Michigan department of agriculture.
- (j) Bacterial ring rot-infected potatoes and other plant parts that might provide a source of contamination or cull potatoes from another location or farm are stored or disposed of at, or are introduced into, the operation.

If a potato disease of significant impact to the seed industry is identified for which certification standards have not been established in these rules, THEN the director shall appoint an advisory committee to provide recommendations for appropriate certification standards and actions. The committee shall consist of 1 certified OR FOUNDATION seed potato producer and 1 representative each from ALL OF THE FOLLOWING:

The department of ~~botany and~~ plant pathology and the department of crop and soil sciences at Michigan state university. The official seed-certifying agency, ~~and~~. The Michigan department of agriculture. The signed affidavit required for the genetic material defined in R 285.628.1(j)(iii) shall be provided by the applicant to the official seed-certifying agency upon request, in order to propagate and certify this material in Michigan. The certified seed tag for this material shall specify that it has met all certification standards, except for nonvisual characteristics. The plant and tuber descriptions and any required affidavits shall be in a format approved by the official seed-certifying agency.

Except as otherwise specified, the measurement method or basis for determining compliance with the stated tolerances is visual inspection of a sample of the plants or tubers in the field or lot, respectively. Further, except as specified, sample sizes are ~~at the discretion of~~ TO BE DETERMINED BY the certification agency. Diseases, varietal mixtures, or grade defects may be present at a level in excess of specified tolerances;

however, disease symptoms, varietal mixtures, and grade defects ~~may~~ SHALL not be visually detectable at the time of official inspection due to numerous factors, including environmental conditions and varietal differences. Furthermore, even the inspection of larger samples might not reveal deviations in excess of specified tolerances. Finally, with respect to the zero tolerances for such defects as varietal mixture, bacterial ring rot, and root knot nematode AND SPINDLE TUBER, the tolerances are chosen for reasons of convenience and practicality and are not construed to mean that the lot inspected is free of the defects. Negative inspection results mean that varietal mixture, bacterial ring rot, or root knot nematode OR SPINDLE TUBER were not found during the inspection process. ONLY SEED LOTS PRODUCED FROM FOUNDATION CLASS MATERIAL OR BETTER IS ELIGIBLE FOR SALE OR TRANSFER FOR RECERTIFICATION.

R 285.628.4a RESCINDED. Introduction of new varieties or seed stocks.

~~— Rule 4a. (1) All new seed introductions planted in the field shall be isolated and identified at all times. All new seed introductions in storage shall be isolated and identified as to variety, class, and seed source. This isolation and identification is to assure that exposure to any other seed stock does not occur if bacterial ring rot is diagnosed in the new varieties or seed stocks. All new seed shall be handled last within the overall management operation for not less than the initial 3 years to avoid any potential contamination.~~

~~(2) Any new seed introductions shall be not more than 30 pounds (15 pounds of minitubers) of an approved variety. If bacterial ring rot occurs in a new seed source under this program, other seed sources will continue to be eligible for certification if they have not been exposed to the ring rot.~~

~~(3) Any new introduction shall be from a seed source approved by the official seed-certifying agency before the initial introduction.~~

~~(4) An approved seed source shall be in compliance with both of the following requirements:~~

~~(a) The seed shall be verified by an approved certification agency in the state or country of origin as being free from bacterial ring rot for not less than the past 3 years.~~

~~(b) Seed certification records which are from an approved certification agency in the state or country of origin and which document the origin, field inspection, laboratory inspection, and winter test results, if available, shall be submitted with the application.~~

~~(5) An inspection will be conducted by the official seed-certifying agency for any new seed introduction to verify planting, harvest, sanitation, and storage records during the initial 3 years of introduction.~~

~~(6) A final foliage inspection shall be made by the official seed-certifying agency before any top killer is applied.~~

~~(7) A tuber inspection shall be made by the official seed-certifying agency.~~

~~(8) New seed lots shall be stored in clean, sanitized containers and labeled as to variety, class, and seed source during the first 2 storage periods.~~

~~(9) If more than 30 pounds (15 pounds of minitubers) of a new potato variety or seed stock are introduced and if bacterial ring rot is detected in the new variety or seed stock in the farm operation, the provisions of~~

~~R 285.628.4(1)(h) shall apply.~~

R 285.628.5 Official seed-certifying agency; duties.

Rule 5. The official seed-certifying agency shall do all of the following:

- (a) Make 2 or more inspections of all fields of seed potatoes eligible for certification and all prenuclear seed stock eligible for certification. An application for such certification shall be filed according to the requirements of R 285.628.3. Inspections shall be made at times when plant growth and other conditions are optimum for varietal identification and disease expression. All potato production shall have at least 1 field inspection for ring rot.
- (b) Make at least 1 tuber inspection of all seed lots entered for field inspection certification.
- (c) At least annually and before the establishment of each greenhouse crop, inspect storage, laboratory, greenhouse, and screenhouse facilities for proper isolation and sanitation. If both greenhouse or laboratory production and the field production are inspected by the official seed-certifying agency, THEN they will be considered separate production units. If only the greenhouse or laboratory production or only the field production is inspected, THEN it will be considered 1 unit.
- (d) Collect, or cause to be collected, representative tuber or plant samples of certifiable seed potatoes for winter testing or other tests as may be required for certification.
- (e) Issue certification tags, OR BULK CERTIFICATES for each container or bulk shipment of certifiable potatoes or, upon request by an applicant who has sold seed potatoes ~~that~~ WHICH must be shipped before the winter test results are known and which are otherwise certifiable, issue ~~certification~~ tags OR BULK CERTIFICATES for each container or bulk shipment that contains the statement that the potatoes MET SUMMER FIELD AND LABORATORY CERTIFICATION REQUIREMENTS BUT WERE SHIPPED ~~were~~ ~~certified~~ before the OFFICIAL winter test results WERE AVAILABLE.
- (f) Apply inspection tolerances to field inspections and winter tests on the basis of visual observations, except when deemed appropriate by the certifying agency to confirm visual observations or suspected latent infections by ~~laboratory~~ ANALYTICAL methods.

R 285.628.5a ~~Prenuclear, n Nuclear, generation I, generation II, generation III, generation IV, and generation V seed lots; FOUNDATION-FIELD YEAR 1 THROUGH 5 AND CERTIFIED FIELD YEAR 1 THROUGH 6 SEED LOTS; certification requirements.~~

Rule 5a. Seed lots of ~~prenuclear, nuclear, generation I, generation II, generation III, generation IV, and generation V~~ FOUNDATION-FIELD YEAR 1 THROUGH 5 AND CERTIFIED seed shall not be certified as such if any of the following provisions apply:

(a) Less than all of the potato acreage on the farm producing such lots was planted with seed that had been certified.

(b) The following visual field inspection or laboratory testing tolerances for diseases and varietal mix are exceeded during any ~~2 or more~~ field inspections or laboratory observations:

~~Prenuclear/~~ ~~Generation~~ ~~Generation~~ ~~Generation~~ ~~Generation~~ ~~Generation~~

~~Virus Nuclear I II III IV V~~

~~Diseases and~~

~~Varietal Mixtures~~

| | | | | | | |
|-----------|----|------|------|------|------|------|
| Leaf roll | 0% | .10% | .10% | .20% | .30% | .50% |
|-----------|----|------|------|------|------|------|

| | | | | | | |
|---------|----|------|------|------|------|------|
| Mosaics | 0% | .10% | .10% | .25% | .30% | 1.0% |
|---------|----|------|------|------|------|------|

~~Spindle~~

| | | | | | | |
|-------|----|----|----|----|----|------|
| tuber | 0% | 0% | 0% | 0% | 0% | .25% |
|-------|----|----|----|----|----|------|

Aggregate for
above virus
diseases — 0% — .10% — .10% — .25% — .30% — 1.0%
Other diseases
wilt (verticillium,
fusarium) — 0% — .25% — .25% — .50% — .50% — .50%
Bacterial ring
rot — 0% — 0% — 0% — 0% — 0% — 0%
Varietal
mixture — 0%* — .05% — .05% — .10% — .10% — .20%

* ~~Any varietal mixture in nuclear stock shall be rogued to achieve 0 (zero) tolerance.~~

| | FOUNDATION CLASS | | CERTIFIED CLASS | |
|------------------|------------------|----------------------|------------------|----------------------|
| | NUCLEAR/ FY-1 | FY-2 THROUGH FY-5 | | FY-1 THROUGH FY-6 |
| LEAF ROLL | 0.00% | 0.25% | LEAF ROLL | 0.50% |
| MOSAICS | 0.00% | 0.25% | MOSAICS | 1.00% |
| SPINDLE TUBER | 0.00% | 0.00% | SPINDLE TUBER | 0.00% |
| AGGREGATE | 0.00% | 0.25% | AGGREGATE | 1.00% |
| B.R.R. | 0.00% | 0.00% | B.R.R. | 0.00% |
| VARIETAL MIX | 0.00% | 0.10% | VARIETAL MIX | 0.25% |

* ANY VARIETAL MIXTURE IN NUCLEAR OR FOUNDATION-FIELD YEAR 1 STOCK SHALL BE ROGUED TO ACHIEVE 0 (ZERO) TOLERANCE.

(c) Roguing is not completed before the second inspection.

(d) The tuber samples that are winter-tested exceed the disease inspection tolerances for virus leaf roll, rugose mosaic, potato virus Y, and spindle tuber, which shall be an aggregate of ~~0.0% for nuclear~~ 0.5%-1.0% for generation I FOUNDATION-FIELD YEAR 1 THROUGH FOUNDATION-FIELD YEAR 5, AND 5.0% FOR CERTIFIED FIELD YEAR 1 THROUGH CERTIFIED FIELD YEAR 6, ~~1.5% for generation II, 2.0% for generation III, 2.5% for generation IV, and 5.0% for generation V CERTIFIED.~~

R 285.628.6 RESCINDED. Clones, clone increase, premier foundation, foundation, and certified seed lots; certification requirement.

— Rule 6. Seed lots of clones, clone increase, premier foundation, foundation, and certified seed shall not be certified as such if any of the following provisions apply:

(a) Less than all of the potato acreage on the farm producing such lots was planted with seed that had been certified.

(b) The following visual field inspection tolerances for diseases and varietal mix are exceeded during any 2 or more field inspections or laboratory observations:

| | | |
|----------------------------------|-------------------|-----------------------------|
| Diseases and | Clone | Premier |
| Varietal Mixture Increase | Foundation | Foundation Certified |

| | | | | |
|--|------|------|------|------|
| Leaf roll | .10% | .20% | .30% | .50% |
| Mosaics | .10% | .25% | .30% | 1.0% |
| Spindle tuber | 0% | 0% | 0% | .25% |
| Aggregate for above virus diseases | .10% | .25% | .30% | 1.0% |
| Other diseases wilt (verticillium, fusarium) | .25% | .50% | .50% | 1.0% |
| Bacterial ring rot | 0% | 0% | 0% | 0% |
| Varietal mixture | .05% | .10% | .10% | .20% |

(c) Roguing is not completed before the second inspection.

(d) The tuber samples that are winter tested exceed the disease inspection tolerances for virus leaf roll, rugose mosaics, potato virus Y, and spindle tuber, which shall be an aggregate 2% for premier foundation, 2.5% for foundation, and 5.0% for certified seed.

R 285.628.8 Storage facilities and equipment; packaging facilities; sanitation; isolation of certifiable seed potatoes.

Rule 8. (1) All equipment and storage facilities shall be thoroughly cleaned and disinfected BEFORE USE.

(2) Storage facilities, including those located at packaging sites in which ~~—nuclear, generation I, generation II, generation III, generation IV, generation V, premier foundation, foundation, and certified~~ FOUNDATION-FIELD YEAR 1 THROUGH 5 AND CERTIFIED-FIELD YEAR 1 THROUGH FIELD YEAR 6 seed are stored, shall contain only lots of potatoes that have passed field inspection or have been rejected for reasons other than exposure to, or infection by, bacterial ring rot, if ~~such~~ THE lots are isolated from the certifiable seed potatoes. Storage facilities which are maintained by the propagator and in which prenuclear seed is stored shall contain only lots of prenuclear seed stock that have passed laboratory or greenhouse inspections. EACH FOUNDATION AND CERTIFIED SEED LOT SHALL BE SEPARATED BY A PHYSICAL BARRIER THAT WILL PREVENT THE MIXING OF SEED.

(3) Agricultural equipment that is used for noncertified potato production and processing equipment shall not be allowed to enter certified seed potato storages, processing areas, and production fields unless the equipment is power washed and disinfected. Nonagricultural equipment shall not be allowed to enter certified seed production fields unless the equipment is power washed and disinfected. The power washing and disinfection of equipment shall be documented for future reference by the official seed-certifying agency. Materials that are used to disinfect storage and production equipment and nonagricultural equipment shall be of a type ~~approved for that purpose by Michigan state university~~ LABELED FOR BACTERIAL DISEASE CONTROL.

(4) Trucks and other means of conveyance which are not owned or operated by the seed farm operator and which are used to transport certified seed potatoes from the seed farm operation shall not be cleaned on the seed farm premises.

(5) Packaging facilities and equipment used for certified seed potatoes shall be power washed and disinfected and shall be inspected and approved by the certifying agency before

the facilities are used or the equipment is operated. Materials that are used to disinfect packaging facilities and equipment shall be of a type ~~approved for that purpose by Michigan state university~~. LABELED FOR BACTERIAL DISEASE CONTROL.

(6) Storage and packaging facilities that are operated by someone other than the seed potato propagator shall maintain grade inspection and bulk shipment certificates, certification documents, and other records as deemed necessary by the certifying agency for each lot of seed that is stored or packaged at that facility. These documents shall be maintained for a period of not less than 4 years after the seed lot has been removed from the facility and shall be accessible to the director or the certifying agency during normal business hours.

R 285.628.9 Shipping inspection.

Rule 9. ~~All classes~~ EACH LOAD of seed shall be inspected for grade at the time of shipping to complete the certification process. The inspection may be made by the federal-state inspection service or by the certifying agency. A shipping time inspection for grade shall be made each time a ~~lot~~ LOAD of seed potatoes is transferred or shipped. A certificate of inspection shall accompany each shipment.

R 285.628.11 Grades and sizes; adoption of standards by reference.

Rule 11. (1) Grades and sizes of ~~nuclear, generation I, generation II, generation III, generation IV, generation V, premier foundation~~, foundation and certified classes of seed shall conform to the current United States standards for grades of seed potatoes effective March 6, 1987. These standards are adopted in these rules by reference and are available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, at no cost, or from the Michigan Department of Agriculture, P.O. Box 30017, Lansing, Michigan 48909, at no cost.

(2) Blue tag grade seed potatoes shall be in compliance with the requirements of the United States no. 1 seed potato grade. The size shall be not less than 1 1/2 inches and not more than 3 1/4 inches in diameter or more than 12 ounces in weight, unless otherwise specified. If stones are present, they shall be duly noted on the grade inspection report.

(3) Yellow tag grade seed potatoes shall be in compliance with the blue tag United States no. 1 seed potato grade standards, except that, to allow for variations incident to proper grading and handling, BOTH OF the following tolerances are permitted:

(a) The allowance for sprouts may be exceeded after March 15.

(b) Twenty percent or less of the potatoes in any seed lot shall fail to meet the remaining requirements of this grade if NEITHER OF the following tolerances ~~are not~~ IS exceeded:

(i) Twelve percent for external or internal defects based on the following allowances:

~~(a)~~(A) Six percent for damage, including not more than ~~2~~ 3% for serious damage due to dry or moist-type fusarium tuber rot.

~~(b)~~(B) Six percent for serious damage due to other defects.

~~(c)~~(C) Total serious damage shall not be more than 6%.

(ii) One percent for frozen, soft rot, or wet breakdown.

(4) All sellers and purchasers of a given lot of red tag grade seed potatoes shall jointly agree as to size and defects, except that NEITHER OF the following tolerances shall ~~not~~ be exceeded:

- ~~(i)~~ (a) Six percent for damage due to dry or moist-type fusarium tuber rot, including not more than ~~2~~ 4% for serious damage due to dry or moist-type fusarium tuber rot.
- ~~(ii)~~ (b) One percent for frozen, soft rot, or wet breakdown.
- (5) A purple tag shall be used for ~~p~~renuclear seed stock. All sellers and purchasers of a given lot of ~~p~~renuclear seed stock shall jointly agree as to size and condition.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF AGRICULTURE

REGULATION 628, SEED POTATO CERTIFICATION

ORR # 2000-089

(By authority conferred on the director of the department of agriculture by section 2 of 1959 PA 221, MCL 286.72)

A public hearing on proposed amendments to Regulation 628, Seed Potato Certification, will be held on Wednesday, July 18, 2001, beginning at 2:30 pm in Conference Room 2, Upper Parking Level, Ottawa Building, 611 W. Ottawa, Lansing, Michigan.

The proposed amendments for seed potato certification include:

Removal of certification criteria for material produced under the old hill selection system;

Clarification of timelines to address bacterial ring rot infections;

Elimination of Rule 4a which provided for special isolation provisions for materials introduced into operations under the old hill selection program;

Development of a new seed potato classification system for materials produced through tissue culture.

Development of field and winter test tolerance for the new classification system noted in 4 above.

The department invites all interested persons to present their views regarding the proposed amendments either orally or in writing. Those wishing to testify in person at the hearing are requested to bring written statements with them. Written comments must be received by the Pesticide and Plant Pest Management Division by 5:00 p.m., Friday, July 20, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Pesticide and Plant Pest Management Division at (517) 373-4087, a week in advance to request mobility, visual, hearing, or other assistance.

The proposed amendments are available on the Internet at <http://www.state.mi.us/orr/rules/depart.htm> (under Agriculture, identified as 2000-089-AC) or a copy can be acquired from the Michigan Department of Agriculture, Pesticide and Plant Pest Management Division, PO Box 30017, Lansing, Michigan, 48909, (517) 373-4087, upon request.

Dan Wyant, Director

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PUBLIC SERVICE COMMISSION

TELECOMMUNICATION SERVICES

Filed with the Secretary of State on
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the public service commission by sections 202 and 213 of 1991 PA 179, MCL 484.2202 and 484.2213)

PART 1. GENERAL PROVISIONS

R 484.401 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means 1991 PA 179, MCL 484.2101 et seq.
- (b) "Answer" means that a provider's representative, voice response unit, or automated operator system is ready to render assistance or ready to accept information necessary to process a call.
- (c) "Average busy season, busy hour traffic" means the average traffic volume for the busy season, busy hour.
- (d) "Busy hour" means the hour when a telecommunication switching system carries the greatest volume of traffic (typically the busiest hour of the busiest day of a normal week).
- (e) "Busy season" means the period of the year during which a telecommunication switching system carries the greatest volume of traffic.
- (f) "Call" means the action by a customer to obtain a telephone connection whether the connection is completed or not.
- (g) "Central office" means a switching unit in a telecommunication system which provides service to the general public, and which has the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only.
- (h) "Commission" means the Michigan public service commission.
- (i) "Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency using regulated telecommunication services furnished by a provider.
- (j) "Customer trouble report" means any oral or written report from a customer relating to a physical defect, difficulty, or dissatisfaction with the operation or facilities of a provider.

(k) "Emergency" means the loss or impairment of service or service below a quality that is reasonably usable to any of the following entities:

- (i) A business that relies on the service to do business.
- (ii) An employee of a public safety, emergency medical, or professional trade who is on call.
- (iii) A person who has a medical need that is life-threatening.
- (iv) A school.
- (v) An adult care facility.
- (vi) A child care facility.
- (vii) Fifty or more customers in a given geographic area.

(l) "Line" or "loop" means any of the following:

- (i) The conductor or conductors and supporting structures extending between a customer's location and the central office or between central offices whether they are in the same or different communities.
- (ii) The conductors and circuit apparatus associated with a particular communication channel.
- (iii) Any communication channel between 2 points, regardless of the method of its derivation.

(m) "Out of service" means a condition of a customer's telecommunication service that prevents the customer from either making or receiving calls or connecting to the customer's internet service provider due to a noisy line, crossed lines, static that makes normal conversation impractical, or any other condition that prevents the use of all services or features that are associated with basic local exchange service and switched data service.

(n) "Provider" means a person, firm, partnership, corporation, or other entity that provides basic local exchange service as defined by section 102(b) of 1991 PA 179, MCL 484.2102(b).

(o) "Tariff" means the compilation of all rates, charges, classifications, and rules adopted by a provider and filed with the commission.

(p) "Technical specifications" means sufficiently detailed electrical and mechanical specifications to allow the customer to measure the service performance for each service offering.

(q) "Traffic" means telephone call volume, based on the number and duration of messages.

(2) A term defined in the act has the same meaning when used in these rules.

PART 2. RECORDS, REPORTS, AND TARIFFS

R 484.421 Availability of records.

Rule 21. (1) A provider shall make available to the commission or its staff, upon request, all records, reports, and other information required to determine compliance with these rules and to permit the commission and its staff to investigate and resolve quality of service issues related to regulated telecommunication services.

(2) A provider shall make records, reports, and other information available to the commission or its staff by the next business day (preferably in an electronic format available through the internet, accessible with standard browser software, identification, and password) or as soon thereafter as feasible.

(3) Records constituting or incorporating trade secrets or commercial or financial information that are made available to the commission or its staff may be made exempt from disclosure, pursuant to section 210 of 1991 PA 179, MCL 484.2210.

R 484.422 Retention of records.

Rule 22. A provider shall preserve, in detail, all records required by these rules for the immediate past 12 months, and shall preserve, in summary form, all records for not less than 3 years, unless otherwise ordered by the commission.

R 484.423 Reports of service disruptions.

Rule 23. (1) A provider shall report promptly to the commission any specific occurrence or development that disrupts service to a substantial number of its customers or that may impair its ability to furnish service to a substantial number of its customers. A provider shall report all disruptions that affect the lesser of 25% or 2,000 of the provider's access lines in any exchange for 1 hour or more. It shall notify the commission and post the information on the provider's internet website within 90 minutes of the beginning of the disruption during normal business hours, or, if the disruption occurs during the evening or a weekend, within 90 minutes of the commencement of the next business day.

(2) A provider shall file a final report with the commission in electronic form within 30 days of any disruption. The report shall contain all of the following information:

- (a) The reason for the disruption.
- (b) The geographic area affected.
- (c) The number of customers affected.
- (d) The type of services affected.
- (e) The effect upon the provider.
- (f) Whether the service disruption was avoidable.
- (g) An explanation of the provider's remedy for the service disruption.
- (h) A description of the actions that the provider has taken or could take to avoid similar disruptions in the future.

R 484.424 Service measurements.

Rule 24. Upon request of the commission or its staff, a provider shall make measurements to determine the level of its compliance with these rules.

R 484.425 Tariffs.

Rule 25. A provider shall file its tariff with the commission in accordance with applicable laws and commission orders governing the filing of tariffs. A provider's bills and telephone directories shall include an internet URL address at which its tariff is available.

PART 3. CUSTOMER RELATIONS

R 484.431 Rate and special charges information.

Rule 31. (1) Upon the request of a customer or an applicant for service, a provider shall explain the rates, charges, and provisions under which it provides service and shall provide

1 copy of the applicable tariff for the regulated telecommunication services that are furnished or available to the customer or applicant.

(2) A provider shall furnish reasonable access to information and assistance necessary to enable the customer or applicant to obtain the most economical service available to meet the customer's or applicant's stated needs. The provider shall advise the customer or applicant about any of the provider's alternative services that are available to meet those needs. This information may include printed explanations of alternative services and rates.

(3) Before changing or installing a service, a provider shall furnish to the customer or applicant an estimate of the amount of any service connection charges and an estimate of the initial bill for basic monthly service, including any fractional monthly amounts, and any other applicable charges.

(4) A provider shall furnish the customer or applicant with a written, detailed estimate of any special charges not specifically set forth in the provider's tariff. Special charges include any of the following:

(a) Extraordinary construction, maintenance, and replacement costs.

(b) Expenses for overtime work at the customer's or applicant's request.

(c) Special installations, equipment, and assemblies.

(5) Upon request of the customer or applicant, a provider shall furnish detailed technical specifications.

R 484.432 Identity verification.

Rule 32. (1) A provider shall require proof of identity and residency from a person requesting telephone service.

(2) A provider shall attempt to match the applicant's social security number to the applicant's name through information available from a credit reporting agency. If it cannot do so, then the provider shall notify the applicant and obtain photographic identification, make a positive identification check, and obtain an explanation for the lack of a match between the social security number and name.

(3) A provider shall check all of its available customer account records to verify that there is not an account open under the applicant's name or social security number and that there is not a prior outstanding balance under the applicant's name or social security number in the last 60 months for any other telephone number or at any other location. If there is an open account or prior outstanding balance, then the provider shall notify the customer that a new account has been requested. The provider shall not open the new account until it has affirmatively verified that the new account is being established legitimately.

(4) A provider shall give a customer or applicant an opportunity to furnish government identification in person. A provider shall make provision for a customer to present proof of identification during the hours of 8 a.m. to 6 p.m., Monday through Friday, and 8 a.m. to noon, Saturday, at a location within the county where the customer or applicant resides.

R 484.433 Disputed credit information.

Rule 33. If a provider receives notice from a customer, applicant, or credit reporting agency that credit information is in dispute, then the provider shall do all of the following, within 15 days of first receiving notice of the dispute:

(a) Conduct an investigation of the disputed information.

- (b) Review all relevant information provided by the reporting agency.
- (c) Report the results of the investigation to the reporting agency.
- (d) If the investigation finds that the information is incomplete or inaccurate, report the results to all other reporting agencies to which the provider furnished the information.
- (e) Advise the customer or applicant, in writing, of the results of the investigation.

R 484.434 Public information.

Rule 34. (1) A provider shall make available to a customer or applicant all of the following information for inspection and shall provide copies upon request:

- (a) Tariffs for regulated telecommunication services.
 - (b) Maps showing exchange boundaries, base rate areas, and zone boundaries, if applicable, in sufficient size and detail to permit all customer locations to be determined.
 - (c) Publicly announced information as to the present and intended future availability of specific classes of service at a customer's or applicant's location.
 - (d) Publicly announced information concerning plans for major service changes at a customer's or applicant's location.
- (2) A provider shall furnish to a customer a list of all exchanges within the customer's local calling area upon request and when the customer first establishes service. A provider shall notify a customer if the customer is located in an area in which the dialing of a 7-digit number may result in toll charges.

R 484.435 Business offices.

Rule 35. (1) A provider shall maintain business offices that are adequately staffed with qualified persons to do all of the following:

- (a) Provide convenient access to information relating to its services and rates.
 - (b) Accept and process applications for service.
 - (c) Explain charges on bills.
 - (d) Adjust erroneous charges.
 - (e) Enter into payment arrangements.
 - (f) Act as a representative of the provider.
- (2) A provider shall maintain a local or toll-free telephone number by which all customers located in the community served by a business office may call that office at no charge.
- (3) A provider shall maintain sufficient staffing to ensure that customers and others who call a business office are permitted to talk to a person who is able to provide assistance within 3 minutes of calling the office.
- (4) A provider shall ensure that all information provided to customers and others is accurate and in compliance with commission rules and the provider's tariff.
- (5) A provider shall make arrangements to assist those who do not speak English.

R 484.436 Customer billing.

Rule 36. (1) A provider's bill to each customer shall contain a listing of all charges and the period of time covered by the billing. The bill shall itemize all usage-sensitive charges by date, duration, and number called unless the customer waives an itemization or the provisions of subrule (3) of this rule apply.

(2) A provider shall furnish a customer with a written explanation of local service charges and applicable technical specifications upon request.

(3) When a minimum monthly rate includes a usage allowance, a provider shall show on the customer's bill the portion of the allowance used for any billing period in which the full allowance is not exceeded. Usage in excess of the allowance shall be shown as a separate item. A provider shall keep supporting usage detail for not less than 90 days, and shall furnish the usage detail to the customer upon request.

(4) A provider shall include, on the customer's bill in the next billing month, or as soon thereafter as feasible, any credit required by these rules without requiring the customer to request the credit or to take any other action. A provider is not required to give a credit if the service problem is caused by the negligence or willful act of the customer, but the provider shall provide to the customer a written explanation of the negligence or other act that excuses the provision of a credit.

R 484.437 Billing accuracy.

Rule 37. A provider shall develop accounting and billing procedures to ensure that all of its customers receive accurate bills for basic local exchange service. If a customer has multiple accounts, then a provider shall bill all accounts accurately, both as to service and equipment, where applicable, on an exchange basis. A provider shall reimburse a customer for all erroneous charges and shall give the customer a credit of \$25.00 for each billing error.

R 484.438 Advertising.

Rule 38. If a service is not generally available, then a provider's advertising of that service without disclosing the limits on its availability is false, misleading, or deceptive within the meaning of section 502(1)(a) of 1991 PA 179, MCL 484.2502(1)(a).

R 484.439 Directories.

Rule 39. (1) A provider shall furnish to each customer, at no additional charge, a telephone directory for the customer's local calling area, and shall revise and print the directory annually. Each directory shall list the name, address, and telephone number of all customers in the local calling area, except for public telephones and any customer who has requested not to be included in the directory. A provider may omit an address at the customer's request. A customer may specify how his or her name shall appear in the directory.

(2) Dual name listings at the same number (limited to 1 additional name) shall be provided at no additional cost if both persons requesting a dual name listing have the same surname. A customer shall have the option of paying for additional listings in the same or a different directory. A provider shall include the customer's listing in all directories for which the customer has paid for an extra listing.

(3) Upon publishing each directory, a provider shall furnish a copy to the commission and all of the provider's customers served by that directory.

(4) The front cover of each directory shall indicate the area included in the directory, the name of the provider or providers serving that area, and the month and year of issue. The front portion of the directory shall conspicuously feature information about placing calls to

emergency services, police and fire departments, 9-1-1 service, 2-1-1 service, and dual party relay service.

(5) Each directory shall contain instructions concerning the placing of local and long distance calls, obtaining repair and directory assistance services, the locations and telephone numbers of the provider's business office or offices for the area served by the directory, and the means to determine which numbers are in the local calling area.

R 484.440 Directory errors and omissions.

Rule 40. (1) If an error in the listed number of a customer occurs, then the provider shall intercept all calls to the listed number for the remaining life of the directory, if the existing central office equipment permits it to do so and the number is not in service for another customer.

(2) If an error or omission in the name listing of a customer occurs, then the provider shall include in the files of the directory assistance and intercept operators the customer's correct name and telephone number. The provider shall arrange for the correct number to be furnished to the calling party at no charge either upon request or interception.

(3) If a customer's telephone number is changed, then the provider shall intercept all calls to the former number for a minimum of 3 months and give the calling party the new number.

(4) If additions or changes to plant or any other operations necessitate changing telephone numbers assigned to a group of customers, then a provider shall give reasonable notice to all customers affected, even though the change in numbers may coincide with the issuance of a directory.

R 484.440a Directory assistance and intercept calls.

Rule 40a. (1) Directory assistance operators shall have access to all telephone numbers, except telephone numbers not listed or published at the customer's request, for the area for which they are responsible for furnishing directory assistance service.

(2) If a provider's directory assistance operator provides an incorrect number, then the provider shall not bill for the call or shall give a credit equal to the charge, and the provider shall not count the call against the customer's monthly call allowance.

(3) A provider shall furnish a customer up to 3 numbers per call to directory assistance.

R 484.440b Operator services.

Rule 40b. A provider shall assure that operators answer all calls within 10 seconds. An acknowledgment that the customer is waiting on the line is not an answer.

R 484.440c Complaints and appeals.

Rule 40c. (1) Within 10 business days after receiving an oral or written complaint from a customer or applicant, a provider shall investigate and respond fully and promptly. A provider shall notify the customer or applicant of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint. Upon request by the customer or applicant, a provider shall furnish its proposed disposition of the complaint in writing.

(2) A provider shall include on all of its bills and in each telephone directory the mailing address and the telephone number to which a customer or applicant can direct a complaint. The mailing address shall include the name of a person designated by the company to handle complaints.

(3) A provider shall require the personnel who have initial contact with a customer or applicant making a complaint to inform him or her of the right to have the problem considered and acted upon by the supervisory personnel of the provider.

(4) A provider shall require its supervisory personnel to provide the name, address, and telephone number of the commission for further review of an unresolved problem.

(5) Upon receipt of a complaint, whether oral or written, from the commission or its staff, a provider shall do all of the following:

(a) Contact the affected customer within 48 hours.

(b) Promptly investigate the complaint and report the results of its investigation.

(c) Provide a final response to the commission or its staff within 10 business days.

PART 4. ENGINEERING AND PLANNING

R 484.441 Construction.

Rule 41. (1) A provider shall design, engineer, construct, maintain, and operate its telecommunication plant in accordance with generally accepted industry standards, except as modified by the commission or by applicable regulations adopted by a municipality. A provider shall comply with these requirements in the manner that best accommodates the public and prevents, to the extent practical, interference with and from services furnished by other telecommunication service providers and public utilities.

(2) A provider shall design its telecommunication plant in accordance with industry standards to prevent electromagnetic interference from alternating current power systems. A provider shall engage in prior coordination with an electric utility before placing new plant or making major changes in existing plant likely to be affected by the electric utility's facilities.

(3) To minimize the occurrence of voltage and grounding problems, a provider shall consult and coordinate with existing electric and natural gas utilities in the general vicinity of planned telecommunication plant construction before construction.

(4) A provider shall not interconnect service to lines and equipment that do not comply with the provisions of this rule and the rules of the federal communications commission.

(5) A provider shall comply with the provisions of 1974 PA 53, as amended, MCL 460.701 et seq.

R 484.442 General practices.

Rule 42. (1) A provider shall employ prudent management and engineering practices, including the use of reliable procedures for forecasting future demand for services. It shall conduct studies and maintain records to determine whether regulated telecommunication services will comply with these rules.

(2) A provider shall make traffic studies and maintain records as required to determine if sufficient equipment and an adequate operating force are provided at all times, including

the average busy hour, busy season. It shall seek to provide service so that customers do not experience more than a 1% call failure rate during any 1-hour period.

(3) A provider shall install sufficient central office capacity and equipment to permit customers to obtain dial tone within 3 seconds and complete not less than 99% of dialed calls without encountering an equipment blockage or irregularity during any period.

(4) A provider shall engineer, construct, and maintain the trunk and related switching components in the provider's network that connect to the switched access network so that not less than 99% of properly dialed switched access calls (outgoing trunks) during the average busy season do not encounter equipment blockage or irregularity.

(5) If customers experience a call failure rate of more than 1%, then the provider shall take immediate steps to reduce the call failure rate to that level.

R 484.443 Customer line transmission requirements.

Rule 43. A provider shall comply with the following standards for all customer loops, except inside wiring and customer premises equipment:

- (a) A circuit loss of less than 8.5 decibels measured to a milliwatt reference.
- (b) A circuit current of more than 20 milliamperes.
- (c) A circuit noise level of less than 20 decibels-reference noise calibration.
- (d) A power influence level of less than 80 decibels-reference noise calibration.
- (e) A data rate of 56 kilobits per second.

R 484.444 IntraLATA trunk transmission requirements.

Rule 44. A provider shall comply with both of the following standards for all intraLATA trunks:

- (a) Interoffice trunks shall have an objective of +/- 3.6 decibels of the engineered measured loss.
- (b) End office to end office testing shall have an objective of +/- 3.6 decibels per switched leg of the engineered measured loss.

R 484.445 Inspections and tests.

Rule 45. (1) A provider shall adopt and implement a written program, including, but not limited to, periodic and routine testing and inspection of all of the following:

- (a) Interoffice trunking, before and after being placed in service.
- (b) Central office switching equipment connections.
- (c) A sample of customer loops in each exchange.

(2) The written program shall be developed so as to achieve an efficient operation of the provider's system and the rendering of safe, adequate, and continuous service for both routine testing and inspection activities and for the testing and inspection of trouble locations.

(3) A provider shall maintain, or have access to, test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities specified in subrule (1) of this rule.

R 484.446 Emergency operation.

Rule 46. (1) A provider shall make reasonable provision to provide service notwithstanding emergency power interruptions, unusual and prolonged increases in traffic, illness of its personnel, and fires, storms, or other emergencies. It shall inform its employees of the procedures to be followed for an emergency to prevent or minimize interruption and impairment of telecommunication service.

(2) A provider shall equip each central office, remote switch, remote line unit, and interexchange toll switching office or access tandem with a minimum of 4 hours of peak load battery reserve, if permanent auxiliary power is installed, and 8 hours of battery reserve, if permanent emergency power is not installed. It shall have available a mobile power unit to be delivered and connected to central offices, remote switches, and remote line units within 8 hours.

(3) A provider shall maintain current, written emergency procedures that are directed to the prompt restoration of telecommunication service during abnormal conditions.

(4) A 9-1-1 service supplier shall provide 24-hour, 7-day-a-week data base access so as to permit information to be acquired or corrected.

(5) A provider, 9-1-1 service supplier, public safety answering point, or any entity providing or maintaining 9-1-1 data base information shall be liable for errors or omissions in any 9-1-1 system or data base notwithstanding any tariff, interconnection agreement, or contract provision.

(6) A provider, 9-1-1 service supplier, public safety answering point, or any entity providing or maintaining 9-1-1 data base information shall correct each error in the 9-1-1 system or data base within 1 business day.

PART 5. REPAIR AND INSTALLATION

R 484.451 Maintenance of plant and equipment.

Rule 51. (1) A provider shall adopt and implement a maintenance program designed to achieve efficient operation of its system consistent with the rendering of safe, adequate, and continuous service in compliance with applicable codes. Within 48 hours, a provider shall repair plant that is in an unsafe condition.

(2) A provider shall maintain all plant and equipment up to and including the network interface device at the customer's location in safe and serviceable repair at no charge to the customer beyond the normal monthly charge for basic local exchange service. A provider shall do at least all of the following:

(a) Repair or replace broken, damaged, or deteriorated parts.

(b) Readjust adjustable apparatus and equipment when found to be in unsatisfactory operating condition.

(c) Correct electrical faults, such as leakage or poor insulation, noise induction, cross talk, or poor transmission characteristics.

R 484.452 Customer trouble reports.

Rule 52. A provider shall maintain service so that the average monthly rate of all customer trouble reports in any exchange does not exceed 4 per 100 access lines, excluding

reports concerning interexchange calls and trouble found in equipment other than the provider's equipment, such as inside wiring and customer premises equipment. For purposes of this rule, each party line customer shall be considered to have 1 access line. Each customer line reported or found to have trouble shall be counted as a separate trouble report.

R 484.453 Customer repair requests.

Rule 53. (1) A provider shall make provision for the receipt of customer repair requests at all hours. A provider shall maintain adequate personnel so that a person able to help a customer will answer a call within 3 minutes. An acknowledgment that the customer is waiting on the line is not an answer.

(2) A provider shall arrange to have a representative available at all times to accept calls from providers and users of 9-1-1 and emergency services to report trouble with its telecommunication services to those providers.

(3) A provider shall make a full and prompt investigation of all repair requests and shall render reasonable assistance to the customer to identify a cause for the outage that may be corrected by the customer.

(4) A provider shall maintain an accurate record of repair requests by telephone number or circuit number, as appropriate. The record shall include all of the following information:

(a) The customer or service affected.

(b) The time, date, and nature of the repair request.

(c) The action taken to clear the repair request or satisfy the complaint.

(d) The date and time the repair was completed or the request was otherwise closed.

(5) A provider shall not attempt to market new services to a customer calling to report a service problem.

(6) If access to a customer's premises is necessary to complete the repair and the customer is not available, then a tag shall be left on the customer's door indicating the date, an explanation of the repair problem necessitating entry into the customer's premises, and the technician's name and signature.

(7) If a customer's line is out of service more than 24 hours, then the provider shall place a recording on the line stating that the line is being checked for trouble.

R 484.454 Emergency repairs.

Rule 54. (1) A provider shall arrange to clear all emergency out-of-service trouble within 4 hours, except in any of the following situations:

(a) The safety of the provider's personnel would be at risk.

(b) Access to the customer's premises is required but not available.

(c) The repair is necessitated by an unavoidable occurrence affecting a large number of customers.

(2) A provider shall expedite a repair for a customer who has a medical emergency. Unless it has a specific, identifiable reason to doubt a customer's claim, a provider shall accept the customer's claim that there is a medical condition requiring expedited restoration of service.

(3) In addition to any credit required by R 484.455, a provider shall give the customer a credit of \$25.00 if the repair is not completed within 4 hours.

R 484.455 Out-of-service repairs.

Rule 55. (1) A provider shall arrange to clear all out-of-service trouble of a nonemergency nature within the following time frames, unless the customer agrees to another schedule:

(a) Monday through Friday, excluding holidays, all out-of-service trouble shall be cleared within 24 hours after being reported to or found by the provider.

(b) On weekends and holidays, all out-of-service trouble shall be cleared within 48 hours after being reported to or found by the provider.

(c) Repeat trouble reported or found within 45 days of a prior repair shall be repaired within 8 hours after being reported to or found by the provider.

(2) For the first 3 days of a service interruption, a provider shall give the customer a credit equal to 1/30 of the customer's monthly charge for basic local exchange service for each day or portion thereof, commencing when the out-of-service trouble is reported to or found by the provider, until service is restored. After the third day, a provider shall give the customer a credit of \$10.00 per day for the fourth and succeeding days until service is restored.

(3) For repeat trouble, a provider shall give the customer a credit of \$10.00 for each day or portion thereof, commencing when the repeat trouble is reported to or found by the provider, until service is restored.

R 484.456 Other repairs.

Rule 56. (1) A provider shall arrange to clear trouble that does not involve an emergency or out-of-service condition within the following time frames, unless the customer agrees to another schedule:

(a) Monday through Friday, excluding holidays, all trouble shall be cleared within 48 hours after being reported to or found by the provider.

(b) On weekends and holidays, all trouble shall be cleared within 96 hours after being reported to or found by the provider.

R 484.457 Repair commitments.

Rule 57. (1) For all repair requests, a provider shall give the customer a 4-hour time period within which the repair will be completed.

(2) A provider shall keep all repair commitments unless it contacts the customer at least 24 hours before the confirmed time and reschedules the appointment. If unusual repairs are required or other factors preclude completing repairs promptly, then a provider shall make reasonable efforts to notify the customer.

(3) If a provider misses a time commitment, then it shall give the customer a credit of \$25.00 for each missed commitment.

R 484.458 Installation commitments.

Rule 58. (1) A provider shall install service for a customer or applicant within 5 working days of the installation request, unless a later date is requested or agreed to by the customer or applicant or the customer or applicant misses the appointment.

(2) A provider shall keep records of all installations not completed by the commitment date.

(3) If a provider does not complete an installation by the commitment date, then the provider shall give the customer or applicant a credit of \$10.00 for each day or portion thereof beyond the commitment date until service is installed and shall waive the installation fee, unless the customer or applicant misses the appointment.

(4) A provider shall provide for the reclassification of service at the request of a customer not later than the date mutually agreed to between the provider and the customer. A provider shall report to the commission orders for reclassification of service being held more than 60 days.

R 484.459 Return calls.

Rule 59. (1) A provider is required to return a call to a customer if either of the following occurs:

(a) A customer requests to speak with a supervisor and a supervisor is not immediately available.

(b) The provider's representative tells the customer to expect a return phone call.

(2) The provider shall give the customer a credit of \$50.00 if it fails to do either of the following:

(a) Have a supervisor return a call by the end of the next business day unless a documented extreme event occurs.

(b) Have its telecommunication corporation representative return a call by the end of the next business day unless a documented extreme event occurs.

R 484.460 Planned service interruptions.

Rule 60. If a provider must interrupt service to work on lines or equipment, then it shall arrange to do the work in a manner that will cause minimal inconvenience to its customers. When it reasonably expects that service will be interrupted for more than 15 minutes, the provider shall attempt to notify each affected customer in advance of the interruption. It shall make emergency service available, as required, for the duration of the interruption.

PART 6. MONITORING

R 484.461 Key measures of performance.

Rule 61. (1) A provider shall submit to the commission staff monthly reports detailing its performance on all of the following measures:

(a) Completing an investigation and contacting the customer within 10 days of the receipt of a complaint.

(b) Restoring service in an average of 24 hours (48 hours on weekends and holidays) of the receipt of a trouble report.

(c) Answering calls to a business office in an average of 3 minutes.

(d) Meeting new installation commitments.

(e) Meeting the technical specifications of a product or service offering.

(2) The format of the report shall be developed in consultation with the commission staff.

(3) If a provider fails to meet any of the measures specified in subrule (1) of this rule 95% of the time for any 30-day period, then the provider shall file a remedial plan with the commission.

PART 7. WAIVERS AND EXCEPTIONS

R 484.471 Waivers and exceptions.

Rule 71. (1) A provider may request a waiver or exception from these rules when specific circumstances beyond the control of the provider render compliance impossible.

(2) A provider may request a waiver or exception from 1 or more of these rules when the provider, together with any affiliates, serves fewer than 5,000 customers if compliance would not be economically or technologically feasible.

(3) A provider may request a waiver or exception from some or all of these rules if a competitive market for basic local exchange service exists. For purposes of this subrule, a market is competitive if 3 or more providers serve the market and no provider serves more than 60% of the market.

(4) A provider shall be exempt from the provisions of these rules related to directory assistance to the extent the commission determines that the service is competitive under section 207 of 1991 PA 179, MCL 484.2207.

NOTICE OF PUBLIC HEARING

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

NOTICE OF HEARING
REGARDING THE PROMULGATION OF ADMINISTRATIVE RULES
GOVERNING QUALITY OF TELECOMMUNICATION SERVICES

ORR # 2001-009

CASE NO. U-13013

- In Case No. U-13013, the Michigan Public Service Commission is considering the promulgation of rules governing the quality of telecommunication services. The rules would replace the existing rules, R 484.1 et seq., which expire September 1, 2001. The proposed effective date is September 1, 2001.
- The information below describes how a person may participate in this case.
- You may write or call the Michigan Public Service Commission, 6545 Mercantile Way, Lansing, Michigan, 517.241.6170 or 800.292.9555 for a free copy of the proposed rules. Additionally, any person may review the proposed rules at the Commission's offices.
- The public hearing will be held:

DATE:

August 8, 2001

TIME:

9:00 a.m.

LOCATION OF HEARING:

Michigan Public Service Commission
6545 Mercantile Way, Suite 7
Lansing, Michigan

PARTICIPATION:

This public hearing is open to anyone who may desire to comment on the proposed rules.

Any interested person may attend and participate. Persons with disabilities needing help to participate should call the Commission's Executive Secretary at 517.241.6160 or 800.292.9555 a week in advance to request mobility, visual, hearing, or other assistance.

The hearing will be for the purpose of providing an opportunity for all interested persons to present statements, views, data, questions, or arguments concerning the proposed rules. The public hearing will continue until all parties present have had a reasonable opportunity to present statements regarding the proposed rules. Persons presenting statements may be asked questions by the Commission and its Staff, as well as by the presiding officer. Statements may be limited in duration by the presiding officer in order to ensure that all interested parties have an opportunity to participate in the proceedings.

In addition, interested parties may file written comments concerning the proposed rules with the Commission not later than August 15, 2001 at 5:00 p.m. An original and 15 copies of all written comments must be filed with the Michigan Public Service Commission, P. O. Box 30221, Lansing, Michigan 48909. Written comments may also be filed in a similar manner at the public hearing. The Commission requests that written comments refer to Case No. U-13013.

The Commission has authority pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTOR'S OFFICE

PSYCHOLOGY

Filed with the Secretary of State on
This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by section 16145 of 1978 PA 368, MCL 333.16145 and Executive Reorganization Order No. 1996-2, MCL 445.2001)

R 338.2501 to 338.2514 of the Michigan Administrative Code are amended by adding R 338.2511A as follows:

R 338.2511A. LICENSURE BY ENDORSEMENT.

RULE 11A. (1) AN APPLICANT FOR LICENSURE BY ENDORSEMENT SHALL SUBMIT A COMPLETED APPLICATION ON A FORM PROVIDED BY THE DEPARTMENT, TOGETHER WITH THE REQUISITE FEE. IN ADDITION TO MEETING THE REQUIREMENTS OF THE CODE AND THE ADMINISTRATIVE RULES PROMULGATED PURSUANT THERETO, AN APPLICANT WHO SATISFIES THE REQUIREMENTS OF THIS RULE SHALL BE DEEMED TO MEET THE REQUIREMENTS OF SECTION 16186(1)(A) AND (B) OF THE CODE.

(2) AN APPLICANT FOR DOCTORAL LEVEL LICENSURE PURSUANT TO THE PROVISIONS OF SECTION 18223(1) OF THE CODE SHALL MEET EITHER OF THE FOLLOWING REQUIREMENTS:

(A) HAVE BEEN FIRST LICENSED IN ANOTHER STATE AND ENGAGED IN THE INDEPENDENT PRACTICE OF PSYCHOLOGY FOR A MINIMUM OF 10 YEARS BEFORE THE DATE OF FILING AN APPLICATION FOR MICHIGAN LICENSE.

(B) HOLD A CURRENT CERTIFICATE OF PROFESSIONAL QUALIFICATION IN PSYCHOLOGY ISSUED BY THE ASSOCIATION OF STATE AND PROVINCIAL PSYCHOLOGY BOARDS.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

BUREAU OF HEALTH SERVICES

ORR # 2001-037

The Department of Consumer and Industry Services will hold a public hearing on August 27, 2001 at 9:00 a.m. at the Department of Consumer and Industry Services, Ottawa Building, 611 West Ottawa, UP Level, Conference Room 2, Lansing, Michigan.

The public hearing is being held to receive comments from interested persons concerning amendments to the Michigan Board of Psychology Administrative Rules. The proposed rule establishes requirements for obtaining licensure by endorsement based on (1) having a license to engage in the practice of psychology in another state or (2) possession of a current certificate of professional qualification in psychology.

Hearing comments may be presented in person, with written comments available at the time of presentation. Written comments will be accepted at the following address or E-mail address until September 17, 2001 at 5:00 p.m. Address communications to:

Department of Consumer & Industry Services
Bureau of Health Services - Psychology Hearing
P.O. Box 30670
Lansing, MI 48909-8170
Attention: Elizabeth Arasim, Health Policy Analyst
E-mail address: elizabeth.a.arasim@cis.state.mi.us

All hearings are conducted in compliance with the 1990 Americans With Disabilities Act. Hearings are held in buildings that accommodate mobility-impaired individuals and accessible parking is available. A disabled individual requiring additional accommodations for effective participation in a hearing should call Flo Beasley at (517) 335-4013 (voice) or (517) 373-7489 (TTY) to make the necessary arrangements. To ensure availability of the accommodation, please call at least 1 week in advance.

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MCL 24.256(1) states in part:

“Sec. 56. (1) The office of regulatory reform shall perform the editorial work for the Michigan register and the Michigan Administrative Code and its annual supplement. The classification, arrangement, numbering, and indexing of rules shall be under the ownership and control of the office of regulatory reform, shall be uniform, and shall conform as nearly as practicable to the classification, arrangement, numbering, and indexing of the compiled laws. The office of regulatory reform may correct in the publications obvious errors in rules when requested by the promulgating agency to do so...”

CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION

MEMORANDUM

DATE: July 9, 2001

TO: Brian D. Devlin, Director
Office of Regulatory Reform
Executive Office, Legal Division

FROM: Connie Munschy, Chief
MIOSHA Standards Division
Department of Consumer & Industry Services

SUBJECT: Request for Correction of R 408.40625 in the Michigan Administrative Code.

Pursuant to Administrative Procedures Act, Section 56(1), MCL 28.256, the Bureau of Safety and Regulation requests that the Office of Regulatory Reform correct an obvious error in the Michigan Administrative Code. The error is contained in R 408.40625 Certification and use of foot protection, a rule appearing in Construction Safety Standard Part 6. Personal Protective Equipment. The corrected rule should read as follows:

R 408.40625 Certification and use of foot protection.

Rule 625. (1) Safety toe footwear shall bear a permanent mark to show the manufacturer's name or trademark and to show certification of compliance with ANSI standard Z.41-1991 protective foot wear personal protection, which is adopted in these rules by reference and may be inspected at the Lansing office of the department of consumer and industry services. The standard may be purchased at a cost of \$20.00 as of the time of adoption of these rules from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.

(2) An employee shall wear foot protection or toe protection, or both, if conditions of the job are likely to cause a foot injury. The employee shall provide the foot protection or toe protection unless specifically otherwise provided for in a collective bargaining agreement or other employer-employee agreement.

(3) Where toe protection other than safety toe footwear prescribed in subrule (1) of this rule is worn, the toe protection shall have an impact value of not less than that required for the safety toe footwear.

(4) Where a hazard is created from a process, a chemical or mechanical irritant which could cause an injury or impairment to the feet by absorption or from physical contact other than from impact, footwear such as boots, overshoes, rubbers, wooden-soled shoes, or their equivalent shall be worn by the employee and provided for by the employer.

(5) The foot protection shall be maintained without holes due to wear, rips, or tears which reduce the intended protection.

R 408.40625 was promulgated as part of # 1998-098CI, a rule set that became effective on July 23, 1999. R 408.40625 pertains to the "certification and use of foot protection." It was the intention of the Bureau of Safety and Regulation to amend subsection (1), the "certification" portion of the R 408.40625. It was also the intention of the Bureau to eliminate subsection (2) and renumber the remaining subsections, the "use" portions of R 408.40625.

In preparing #1998-098CI, the Bureau inadvertently submitted text to the Office of the Great Seal that contained the intended amendments to subsections (1) and (2), but made no reference to the renumbering of the remaining subsections.¹ As a result, the amended R

¹ The text submitted to the Office of the Great Seal read:

R 408.40625 Certification and use of foot protection.

Rule 625. (1) Safety toe footwear shall bear a permanent mark to show the manufacturer's name or trademark and to show certification of compliance with ~~the ANSI standard Z41.1-1976, men's safety toe footwear, Z.41-1991 PROTECTIVE FOOT WEAR PERSONAL PROTECTION~~, which is **ADOPTED IN THESE RULES incorporated herein** by reference and may be inspected at the Lansing office of the department of consumer and industry services. ~~THE This~~ standard may be purchased at a cost of ~~\$5.00~~ **\$20.00 AS OF THE TIME OF ADOPTION OF THESE RULES** from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.

~~(2) When a woman is unable to wear foot protection prescribed in subrule (1) of this rule, she shall wear protection with a toe guard designed by the manufacturer to provide impact protection on the job.~~

The text submitted to the Office of the Great Seal should have read as follows:

R 408.40625 Certification and use of foot protection.

Rule 625. (1) Safety toe footwear shall bear a permanent mark to show the manufacturer's name or trademark and to show certification of compliance with ~~the ANSI standard Z41.1-1976, men's safety toe footwear, Z.41-1991 PROTECTIVE FOOT WEAR PERSONAL PROTECTION~~, which is **ADOPTED IN THESE RULES incorporated herein** by reference and may be inspected at the Lansing office of the department of consumer and industry services. ~~THE This~~ standard may be purchased at a cost of ~~\$5.00~~ **\$20.00 AS OF THE TIME OF ADOPTION OF THESE RULES** from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.

~~(2) When a woman is unable to wear foot protection prescribed in subrule (1) of this rule, she shall wear protection with a toe guard designed by the manufacturer to provide impact protection on the job.~~

408.40625, as it presently appears in the Michigan Administrative Code, gives the appearance that the rule addresses the certification of foot protection, but not its use. We believe that this error is obvious in that it would be purposeless for the agency to certify a standard for protective foot protection but not specify conditions under which such foot protection should be used. The obviousness of this error is underscored when it is compared with the detailed statements of certification and use that are provided for other types of protective gear described throughout the surrounding rules.

The requested correction would make clear that the use provisions of R 408.40625 were not rescinded by the 1999 amendment.

CM:ch

(2) (3) An employee shall wear foot protection or toe protection, or both, if conditions of the job are likely to cause a foot injury. The employee shall provide the foot protection or toe protection unless specifically otherwise provided for in a collective bargaining agreement or other employer-employee agreement.

(3) (4) Where toe protection other than safety toe footwear prescribed in subrule (1) of this rule is worn, the toe protection shall have an impact value of not less than that required for the safety toe footwear.

(4) (5) Where a hazard is created from a process, a chemical or mechanical irritant which could cause an injury or impairment to the feet by absorption or from physical contact other than from impact, footwear such as boots, overshoes, rubbers, wooden-soled shoes, or their equivalent shall be worn by the employee and provided for by the employer.

(5) (6) The foot protection shall be maintained without holes due to wear, rips, or tears which reduce the intended protection.

**CORRECTION OF OBVIOUS
ERRORS IN PUBLICATION**

MEMORANDUM

July 10, 2001

Department of Consumer and Industry Services
MIOSHA Standards Division
Connie Munschy, Chief
P.O. Box 30643
Lansing, Michigan 48909-8143

Re: Request for correction of R 408.40625 in the Michigan Administrative Code.

Dear Ms. Munschy:

I have read your letter dated July 10, 2001 and I agree that the requested correction to R 408.40625 can be made pursuant to MCL 28.256.

The Office of Regulatory Reform will immediately make the necessary correction in the Michigan administrative code.

Sincerely,

Brian D. Devlin, Director
Office of Regulatory Reform
Executive Office, Legal Division

BDD/do

**OPINIONS OF THE
ATTORNEY GENERAL**

MCL 14.32 states in part:

“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(j) Attorney general opinions. ”

OPINIONS OF THE ATTORNEY GENERAL

OPINIONS OF THE ATTORNEY GENERAL

CITIES:

ELECTIONS:

INCOMPATIBILITY:

PUBLIC EMPLOYEES:

PUBLIC OFFICES AND OFFICERS:

Eligibility requirements for position on city charter commission.

A person serving as a city officer or employee may run for election to the office of city charter commissioner but, if elected, must resign from the city office or employment before assuming the office of city charter commissioner.

Opinion No. 7085

July 11, 2001

Honorable Dale Sheltroun
State Representative
The Capitol
Lansing, MI 48913

You have asked whether a person who is serving as a city officer or employee may run for election to the office of city charter commissioner.

The Home Rule City Act, 1909 PA 279, MCL 117.1 *et seq*; MSA 5.2071 *et seq*, provides for the incorporation of cities and for the adoption, revision, and amendment of their charters. Section 18 of this statute addresses the selection of city charter commissions and establishes eligibility requirements for charter commissioners; it provides in part that:

No city officer or employee, whether elected or appointed, shall be eligible to a *place* on the commission. [Emphasis added.]

A review of the legislative history demonstrates that the Legislature included this sentence in the original statute in 1909 and, although section 18 was amended on five separate occasions, the substance of this sentence has not been altered.

Research reveals no reported Michigan case law on the question posed by your inquiry. OAG, 1943-1944, No 0-1798, p 648 (February 10, 1944), concluded that while a city planning commissioner, as a city officer, is barred from simultaneously *serving* on a city charter commission, if the commissioner resigned from the planning commission, that commissioner would be eligible to run as a *candidate* for the charter commission. However, the question whether a person could become a candidate for election to the charter commission while still serving as a member of the planning commission, then resign from the planning commission if elected to the charter commission, was neither asked nor addressed in OAG No 0-1798.

A review of cases from other jurisdictions discloses two lines of authority on the question whether the time of eligibility of certain persons to hold public office, when not otherwise specified, means the time of a person's election to the office or the time the person elected actually assumes the office. These lines of authorities are examined in Annotation: Time as of which eligibility or ineligibility to office is to be determined, 88 ALR 812, supplemented by the annotation under the same title in 143 ALR 1026.

The first line of authority described in 88 ALR at 814 as the minority view in this country holds that eligibility for public office is to be determined as of the date of one's election. Representative of this line of authority is the decision in *Samuels v Hite*, 35 Cal 2d 115; 216 P2d 879, 880 (1950), where the California Supreme Court concluded that where neither the state constitution nor a statute specifies the time for eligibility, the candidate must be qualified on the date of the election. Relying on *Searcy v Grow*, 15 Cal 117, 121 (1860), the court followed the judicially approved definition of "eligible" to mean "capable of being chosen."

The second line of authority holds that the term "eligible" refers to capacity to hold the office rather than to be elected to office. Therefore, if a person is qualified to hold the office at the beginning of the term of office, ineligibility at the time of election to office is inconsequential. Representative of this view is the decision in *Slater v Varney*, 136 W Va 406; 68 SE2d 757 (1951), where the West Virginia Supreme Court of Appeals concluded that eligibility for a public office is the capacity to hold the office after being elected to it so that if any disqualification is removed before assuming the office, it is immaterial. The *Slater* case extensively cites the cases holding the two respective views and concludes that the second line of authority represents the majority rule in this country. *Id.*, at 769. 88 ALR at 813 makes the same statement.

The logic of the majority rule is more persuasive. Eligibility for public office should be determined with reference to conditions existing at the time of commencement of the term of office, and not with reference to conditions existing at the time of the election. This result is, of course, subject to any constitutional or statutory provision that may specify a different result.

Section 18 of the Home Rule City Act is silent concerning at what time eligibility for the office of charter commissioner should be determined. Moreover, the quoted portion of section 18 only limits eligibility for the office of charter commissioner and, except for a minimum residency requirement, does not limit who may be elected to that position.¹ Assuming a city officer or employee is elected to the city's charter commission and, at any time before assuming the office of city charter commissioner, removes the potential disqualification by resigning the city officer or employee position, that person would be eligible to perform the duties of charter commissioner. The statutory ineligibility never arises if the person no longer holds city office or employment at the time the person actually assumes "a place" on the city charter commission.

It is my opinion, therefore, that a person serving as a city officer or employee may run for election to the office of city charter commissioner but, if elected, must resign from the city office or employment position before assuming the office of city charter commissioner.

JENNIFER M. GRANHOLM
Attorney General

¹Cf. *Ball v Trenton County Clerk*, 1 Mich App 1, 3; 133 NW2d 218 (1965) (maximum age requirement of 70 for person to be eligible to be "*elected*" to judicial office, Const 1963, art 6, § 19, applied at time of election), and OAG, 1997-1998, No 6946, p 51 (July 25, 1997) ("[t]o be *qualified to serve* as a judge of a trial court," a person must be admitted to the practice of law for at least 5 years, Const 1963, art 6, § 19(2), applied as of the date of taking judicial office). (Emphasis added.)

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2001 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”

**ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2001 SESSION)**

| Public Act No. | Enrolled House Bill | Enrolled Senate Bill | I.E.* Yes / No | Governor Approved Date | Filed Date | Effective Date | Subject |
|----------------|---------------------|----------------------|-------------------|------------------------|------------|----------------|--|
| 1 | | 71 | Yes | 3/29 | 3/29 | 06/01/01 | CRIMES; Homicide; certain crimes against prenatal children; expand to include death to the embryo or fetus. (Sen. W. Van Regenmorter) |
| 2 | | 70 | Yes | 3/29 | 3/29 | 6/1/2001 # | CRIMINAL PROCEDURE; Sentencing guidelines; sentencing guidelines for crime of killing fetus or embryo; enact. (Sen. B. Schuette) |
| 3 | | 199 | No | 3/29 | 3/29 | 07/01/02 | INSURANCE; No-fault; Michigan catastrophic claims association retention limits; provide for. (Sen. J. Emmons) |
| 4 | 4322 | | Yes | 3/30 | 3/30 | 03/30/01 | INSURANCE; Insurers; coverage for home health care or assisted living services and assisted living facility stays; require definition. (Rep. S. Tabor) |
| 5 | 4234 | | Yes | 4/11 | 4/12 | 04/12/01 | TRANSPORTATION; Railroads; amount contributed by road authority for maintenance of active traffic control devices; revise. (Rep. J. Allen) |
| 6 | | 1 | Yes | 5/2 | 5/2 | 05/02/01 | CRIMINAL PROCEDURE; Statute of limitations; statute of limitations for certain cases of criminal sexual conduct in which DNA evidence was obtained; eliminate. (Sen. S. Johnson) |

| | | | | | | | |
|----|------|-----|-----|------|------|----------------|---|
| 7 | | 341 | Yes | 5/24 | 5/24 | 05/24/01 | PROPERTY TAX; Millage; state education tax act; expand to include a credit against tax levied under certain circumstances. (Sen. M. Goschka) |
| 8 | 4187 | | Yes | 5/24 | 5/25 | 05/25/01 | CORRECTIONS; Prisoners; visitation; clarify procedures regarding minors visiting prisoners. (Rep. T. Stamas) |
| 9 | | 67 | Yes | 5/29 | 5/29 | 05/29/01 | FAMILY LAW; Marriage and divorce; section prohibiting certain marriages; repeal. (Sen. B. Hammerstrom) |
| 10 | | 103 | Yes | 5/29 | 5/29 | 5/29/2001 # | FAMILY LAW; Marriage and divorce; reference in "the code of criminal procedure" to section being repealed; strike out. (Sen. B. Hammerstrom) |
| 11 | | 104 | Yes | 5/29 | 5/29 | 05/29/01 | FAMILY LAW; Marriage and divorce; reference to section being repealed in "revised judicature act of 1961"; strike out. (Sen. M. Goschka) |
| 12 | | 38 | Yes | 5/29 | 5/29 | 07/01/01 | WATERCRAFT; Intoxication; maximum imprisonment for boating under the influence; increase. (Sen. W. North) |
| 13 | | 150 | Yes | 5/29 | 5/29 | 7/1/2001 # | CRIMINAL PROCEDURE; Sentencing guidelines; sentencing guidelines for boating under the influence; provide for. (Sen. W. North) |
| 14 | 4099 | | Yes | 6/5 | 6/6 | 9/1/2001 # | HUMAN SERVICES; Children's services; self-defense training of children's protective services caseworkers; require, and allow children's protective services caseworkers to perform certain duties in pairs. (Rep. A. Sanborn) |

2001 MR 13

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|----|------|----|-----|------|------|----------------|--|
| 15 | 4409 | | Yes | 6/11 | 6/12 | 6/12/2001 # | VEHICLES; Snowmobiles; snowmobile trail permit fee; increase and provide for allocation, increase civil fine for failure to secure a permit, and require report on expenditure of increase. (Rep. D. Mead) |
| 16 | 4538 | | Yes | 6/11 | 6/12 | 6/12/2001 # | VEHICLES; Snowmobiles; snowmobile trail permit fee; provide for allocation of increase. (Rep. D. Mead) |
| 17 | 4235 | | Yes | 6/11 | 6/12 | 6/12/01 | HIGHWAYS; Name; renaming of M-109; establish as "D.H. Day Highway". (Rep. J. Allen) |
| 18 | 4550 | | Yes | 6/11 | 6/12 | 6/12/01 | TRAFFIC CONTROL; Parking; disabled person parking permit; allow for out-of-state physician signatures accompanied by a copy of the physician's license to practice. (Rep. G. DeRossett) |
| 19 | | 75 | Yes | 6/11 | 6/12 | 9/1/2001 # | CRIMINAL PROCEDURE; Sentencing guidelines; crime of impersonating a family independence agency employee; include in sentencing guidelines. (Sen. J. Gougeon) |
| 20 | | 74 | Yes | 6/11 | 6/12 | 9/1/2001 # | CRIMINAL PROCEDURE; Sentencing guidelines; crime of threatening or physically harming a family independence agency employee; include in sentencing guidelines. (Sen. B. Hammerstrom) |
| 21 | | 73 | Yes | 6/11 | 6/12 | 9/1/2001 # | CRIMES; Fraud; penalties for impersonating a family independence agency employee; provide for. (Sen. J. Gougeon) |
| 22 | | 72 | Yes | 6/11 | 6/12 | 9/1/2001 # | CRIMES; Penalties; penalties for individuals who threaten or impose physical harm to a family independence agency employee; create. (Sen. B. Hammerstrom) |

2001 MR 13

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|----|------|-----|-----|------|------|----------|--|
| 23 | 4412 | | Yes | 6/17 | 6/18 | 06/18/01 | NATURAL RESOURCES; Hunting; shooting preserves; change to game bird hunting preserves, revise licensing fee, and eliminate rule-making authority. (Rep. L. DeVuyst) |
| 24 | | 431 | Yes | 6/17 | 6/18 | 06/18/01 | INSURANCE; Other; privacy requirements; enact. (Sen. B. Bullard Jr.) |
| 25 | 4029 | | Yes | 6/18 | 6/19 | 01/01/02 | INSURANCE; Other; claim history dollar amounts for nonrenewal of homeowner's policy; increase. (Rep. A. Richner) |
| 26 | 4166 | | Yes | 6/21 | 6/22 | 06/22/01 | HEALTH; Death; county medical examiner conducting statutorily required investigation of a death; grant subpoena power to require production of medical records, books, papers, documents, and other items. (Rep. G. Van Woerkom) |
| 27 | 4429 | | Yes | 6/21 | 6/22 | 06/22/01 | EDUCATION; Board members; appointed members as part of majority vote requirement; include. (Rep. T. Meyer) |
| 28 | 4505 | | Yes | 6/21 | 6/22 | 06/22/01 | CONSTRUCTION; Contracts; notification of certain differing site conditions; repeal sunset. (Rep. J. Gilbert I) |
| 29 | 4630 | | Yes | 6/28 | 6/28 | 06/28/01 | EDUCATION; School districts; school districts to adopt parental involvement contracts; encourage and require department to develop model. (Rep. W. Kuipers) |

2001 MR 13

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|----|------|-----|-----|------|------|----------------|--|
| 30 | 4789 | | Yes | 6/28 | 6/29 | 06/29/01 | RETIREMENT; Public school employees; postretirement earnings limitations; revise and extend certain sunset dates. (Rep. J. Allen) |
| 31 | | 56 | Yes | 6/28 | 6/29 | 06/29/01 | RECORDS; Other; vital records fees; increase. (Sen. J. Schwarz) |
| 32 | | 195 | Yes | 6/28 | 6/29 | 06/29/01 | LAW ENFORCEMENT; Fire personnel; civilian injured during fire demonstration; require state fire marshal to investigate. (Sen. M. Goschka) |
| 33 | | 350 | Yes | 6/28 | 6/29 | 06/29/01 | AGRICULTURE; Animals; testing requirements for equines; revise and establish identification system. (Sen. L. Stille) |
| 34 | | 29 | Yes | 6/28 | 6/29 | 03/01/02 | LOCAL GOVERNMENT; Bonds; revised municipal finance act; adopt. (Sen. J. Emmons) |
| 35 | 4222 | | Yes | 6/28 | 6/29 | 6/29/2001 # | COUNTIES; Other; annual report to state board of assessors; require county tax or equalization department to make. (Rep. M. Mortimer) |
| 36 | 4223 | | Yes | 6/28 | 6/29 | 6/29/2001 # | COUNTIES; Other; annual tabular statement to state tax commission; require county tax or equalization department to make. (Rep. M. Mortimer) |

MICHIGAN ADMINISTRATIVE CODE TABLE
(2001 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

** * **

(i) Other official information considered necessary or appropriate by the office of regulatory reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

**MICHIGAN ADMINISTRATIVE CODE TABLE
(2001 RULE FILINGS)**

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|----------|--------|-------------------------------|----------|--------|----------------------------|----------|--------|-------------------------------|
| | | | | | | | | |
| 29.601 | R | 5 | 29.1503 | A | 5 | 29.1809 | A | 5 |
| 29.602 | R | 5 | 29.1504 | A | 5 | 29.1810 | A | 5 |
| 29.603 | R | 5 | 29.1506 | A | 5 | 29.1821 | A | 5 |
| 29.604 | R | 5 | 29.1507 | A | 5 | 29.1822 | A | 5 |
| 29.605 | R | 5 | 29.1508 | A | 5 | 29.1823 | A | 5 |
| 29.621 | R | 5 | 29.1509 | A | 5 | 29.1824 | A | 5 |
| 29.622 | R | 5 | 29.1701 | A | 5 | 29.1831 | A | 5 |
| 29.1001 | R | 5 | 29.1702 | A | 5 | 29.1832 | A | 5 |
| 29.1002 | R | 5 | 29.1703 | A | 5 | 29.1841 | A | 5 |
| 29.1003 | R | 5 | 29.1704 | A | 5 | 29.1842 | A | 5 |
| 29.1004 | R | 5 | 29.1705 | A | 5 | 29.1851 | A | 5 |
| 29.1005 | R | 5 | 29.1706 | A | 5 | 29.1852 | A | 5 |
| 29.1006 | R | 5 | 29.1707 | A | 5 | 29.1861 | A | 5 |
| 29.1007 | R | 5 | 29.1708 | A | 5 | 125.1025 | R | 12 |
| 29.1008 | R | 5 | 29.1710 | A | 5 | 125.1175 | R | 12 |
| 29.1009 | R | 5 | 29.1711 | A | 5 | 324.102 | * | 2 |
| 29.1010 | R | 5 | 29.1721 | A | 5 | 324.416 | * | 2 |
| 29.1021 | R | 5 | 29.1722 | A | 5 | 324.504 | * | 2 |
| 29.1022 | R | 5 | 29.1723 | A | 5 | 324.1008 | * | 2 |
| 29.1023 | R | 5 | 29.1731 | A | 5 | 324.1012 | * | 2 |
| 29.1024 | R | 5 | 29.1732 | A | 5 | 324.1103 | * | 2 |
| 29.1031 | R | 5 | 29.1733 | A | 5 | 324.1105 | * | 2 |
| 29.1032 | R | 5 | 29.1801 | A | 5 | 324.1110 | * | 2 |
| 29.1041 | R | 5 | 29.1802 | A | 5 | 324.1113 | * | 2 |
| 29.1042 | R | 5 | 29.1803 | A | 5 | 324.1122 | * | 2 |
| 29.1051 | R | 5 | 29.1804 | A | 5 | 324.1125 | * | 2 |
| 29.1052 | R | 5 | 29.1805 | A | 5 | 324.1129 | * | 2 |
| 29.1053 | R | 5 | 29.1806 | A | 5 | 324.1130 | A | 2 |
| 29.1501 | A | 5 | 29.1807 | A | 5 | 324.8915 | A | 1 |
| 29.1502 | A | 5 | 29.1808 | A | 5 | 325.2111 | * | 2 |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|-----------|--------|-------------------------------|-----------|--------|----------------------------|-----------|--------|----------------------------|
| | | | | | | | | |
| 325.2113 | * | 2 | 325.2146 | * | 2 | 325.3801 | * | 10 |
| 325.2113a | A | 2 | 325.2151 | * | 2 | 325.3802 | * | 10 |
| 325.2114 | * | 2 | 325.2152 | * | 2 | 325.3803 | A | 10 |
| 325.2115 | * | 2 | 325.2153 | * | 2 | 325.3811 | * | 10 |
| 325.2116 | * | 2 | 325.2154 | * | 2 | 325.3812 | * | 10 |
| 325.2117 | * | 2 | 325.2155 | * | 2 | 325.3815 | * | 10 |
| 325.2118 | * | 2 | 325.2156 | * | 2 | 325.3816 | * | 10 |
| 325.2118a | * | 2 | 325.2157 | * | 2 | 325.3817 | R | 10 |
| 325.2118b | * | 2 | 325.2158 | * | 2 | 325.3818 | R | 10 |
| 325.2121 | * | 2 | 325.2159 | * | 2 | 325.3819 | R | 10 |
| 325.2122 | * | 2 | 325.2161 | * | 2 | 325.3826 | * | 10 |
| 325.2123 | * | 2 | 325.2163 | * | 2 | 325.3828 | * | 10 |
| 325.2124 | A | 2 | 325.2165 | * | 2 | 325.3832 | * | 10 |
| 325.2125 | * | 2 | 325.2171 | * | 2 | 325.3835 | * | 10 |
| 325.2126 | * | 2 | 325.2174 | * | 2 | 325.3851 | R | 10 |
| 325.2127 | * | 2 | 325.2175 | * | 2 | 325.3857 | * | 10 |
| 325.2128 | * | 2 | 325.2176 | * | 2 | 325.3866 | * | 10 |
| 325.2129 | * | 2 | 325.2178 | * | 2 | 325.3867 | * | 10 |
| 325.2129a | A | 2 | 325.2179 | A | 2 | 325.3868 | * | 10 |
| 325.2131 | * | 2 | 325.2181 | * | 2 | 325.3868a | A | 10 |
| 325.2132 | * | 2 | 325.2182 | A | 2 | 325.10101 | * | 9 |
| 325.2133 | * | 2 | 325.2183 | A | 2 | 325.10102 | * | 9 |
| 325.2134 | * | 2 | 325.2184 | A | 2 | 325.10103 | * | 9 |
| 325.2135 | A | 2 | 325.2191 | * | 2 | 325.10104 | * | 9 |
| 325.2136 | * | 2 | 325.2192 | * | 2 | 325.10105 | * | 9 |
| 325.2137 | * | 2 | 325.2193 | * | 2 | 325.10106 | * | 9 |
| 325.2138 | * | 2 | 325.2194 | * | 2 | 325.10107 | * | 9 |
| 325.2141 | * | 2 | 325.2194a | A | 2 | 325.10108 | * | 9 |
| 325.2142 | * | 2 | 325.2195 | * | 2 | 325.10109 | * | 9 |
| 325.2143 | * | 2 | 325.2196 | * | 2 | 325.10110 | * | 9 |
| 325.2143a | A | 2 | 325.2197 | * | 2 | 325.10411 | A | 9 |
| 325.2144 | * | 2 | 325.2198 | * | 2 | 325.10412 | A | 9 |
| 325.2145 | * | 2 | 325.2199 | * | 2 | 325.10413 | A | 9 |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|-----------|--------|-------------------------------|-----------|--------|----------------------------|-----------|--------|-------------------------------|
| | | | | | | | | |
| 325.10414 | A | 9 | 325.10712 | * | 9 | 325.10807 | * | 9 |
| 325.10415 | A | 9 | 325.10713 | * | 9 | 325.10808 | * | 9 |
| 325.10416 | A | 9 | 325.10714 | * | 9 | 325.10809 | * | 9 |
| 325.10417 | A | 9 | 325.10715 | * | 9 | 325.10810 | * | 9 |
| 325.10418 | A | 9 | 325.10716 | * | 9 | 325.10811 | * | 9 |
| 325.10419 | A | 9 | 325.10717 | * | 9 | 325.10812 | * | 9 |
| 325.10420 | A | 9 | 325.10718 | * | 9 | 325.10813 | * | 9 |
| 325.10501 | * | 9 | 325.10719 | * | 9 | 325.10814 | * | 9 |
| 325.10502 | * | 9 | 325.10720 | * | 9 | 325.10815 | * | 9 |
| 325.10503 | * | 9 | 325.10721 | * | 9 | 325.10816 | * | 9 |
| 325.10504 | * | 9 | 325.10722 | * | 9 | 325.10817 | * | 9 |
| 325.10505 | * | 9 | 325.10723 | * | 9 | 325.10818 | * | 9 |
| 325.10506 | * | 9 | 325.10724 | * | 9 | 325.10819 | * | 9 |
| 325.10601 | * | 9 | 325.10725 | * | 9 | 325.10820 | * | 9 |
| 325.10602 | * | 9 | 325.10726 | * | 9 | 325.10821 | * | 9 |
| 325.10603 | * | 9 | 325.10727 | * | 9 | 325.10822 | * | 9 |
| 325.10604 | * | 9 | 325.10728 | * | 9 | 325.10823 | * | 9 |
| 325.10605 | * | 9 | 325.10729 | * | 9 | 325.10824 | * | 9 |
| 325.10606 | * | 9 | 325.10730 | * | 9 | 325.10825 | * | 9 |
| 325.10607 | * | 9 | 325.10731 | * | 9 | 325.10826 | * | 9 |
| 325.10608 | * | 9 | 325.10732 | * | 9 | 325.10827 | * | 9 |
| 325.10609 | * | 9 | 325.10733 | * | 9 | 325.10828 | * | 9 |
| 325.10701 | * | 9 | 325.10734 | * | 9 | 325.10829 | * | 9 |
| 325.10702 | * | 9 | 325.10735 | * | 9 | 325.10830 | * | 9 |
| 325.10703 | * | 9 | 325.10736 | * | 9 | 325.10831 | * | 9 |
| 325.10704 | * | 9 | 325.10737 | * | 9 | 325.10832 | * | 9 |
| 325.10705 | * | 9 | 325.10738 | * | 9 | 325.10833 | * | 9 |
| 325.10706 | * | 9 | 325.10801 | * | 9 | 325.10901 | * | 9 |
| 325.10707 | * | 9 | 325.10802 | * | 9 | 325.10902 | * | 9 |
| 325.10708 | * | 9 | 325.10803 | * | 9 | 325.10903 | * | 9 |
| 325.10709 | * | 9 | 325.10804 | * | 9 | 325.10904 | * | 9 |
| 325.10710 | * | 9 | 325.10805 | * | 9 | 325.10905 | * | 9 |
| 325.10711 | * | 9 | 325.10806 | * | 9 | 325.10906 | * | 9 |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|-----------|--------|-------------------------------|-----------|--------|----------------------------|-----------|--------|-------------------------------|
| | | | | | | | | |
| 325.10907 | * | 9 | 325.11115 | * | 9 | 325.11505 | * | 9 |
| 325.10908 | * | 9 | 325.11116 | * | 9 | 325.11506 | * | 9 |
| 325.10909 | * | 9 | 325.11117 | * | 9 | 325.11601 | * | 9 |
| 325.11001 | * | 9 | 325.11118 | * | 9 | 325.11602 | * | 9 |
| 325.11002 | * | 9 | 325.11201 | * | 9 | 325.11603 | * | 9 |
| 325.11003 | * | 9 | 325.11202 | * | 9 | 325.11604 | * | 9 |
| 325.11004 | * | 9 | 325.11203 | * | 9 | 325.11701 | * | 9 |
| 325.11005 | * | 9 | 325.11204 | * | 9 | 325.11702 | * | 9 |
| 325.11006 | * | 9 | 325.11205 | * | 9 | 325.11703 | * | 9 |
| 325.11007 | * | 9 | 325.11206 | * | 9 | 325.11704 | * | 9 |
| 325.11008 | * | 9 | 325.11207 | * | 9 | 325.11705 | * | 9 |
| 325.11009 | * | 9 | 325.11301 | * | 9 | 325.11706 | * | 9 |
| 325.11010 | * | 9 | 325.11302 | * | 9 | 325.11707 | * | 9 |
| 325.11011 | * | 9 | 325.11303 | * | 9 | 325.11708 | * | 9 |
| 325.11012 | * | 9 | 325.11304 | * | 9 | 325.11709 | * | 9 |
| 325.11013 | * | 9 | 325.11305 | * | 9 | 325.11710 | * | 9 |
| 325.11014 | * | 9 | 325.11306 | * | 9 | 325.11711 | * | 9 |
| 325.11015 | * | 9 | 325.11307 | * | 9 | 325.11712 | * | 9 |
| 325.11016 | * | 9 | 325.11308 | * | 9 | 325.11713 | * | 9 |
| 325.11101 | * | 9 | 325.11309 | * | 9 | 325.11901 | * | 9 |
| 325.11102 | * | 9 | 325.11310 | * | 9 | 325.11902 | * | 9 |
| 325.11103 | * | 9 | 325.11311 | * | 9 | 325.11903 | * | 9 |
| 325.11104 | * | 9 | 325.11401 | * | 9 | 325.11904 | * | 9 |
| 325.11105 | * | 9 | 325.11402 | * | 9 | 325.11905 | * | 9 |
| 325.11106 | * | 9 | 325.11403 | * | 9 | 325.11906 | * | 9 |
| 325.11107 | * | 9 | 325.11404 | * | 9 | 325.11907 | * | 9 |
| 325.11108 | * | 9 | 325.11405 | * | 9 | 325.11908 | * | 9 |
| 325.11109 | * | 9 | 325.11406 | * | 9 | 325.11909 | * | 9 |
| 325.11110 | * | 9 | 325.11407 | * | 9 | 325.11910 | * | 9 |
| 325.11111 | * | 9 | 325.11501 | * | 9 | 325.11911 | * | 9 |
| 325.11112 | * | 9 | 325.11502 | * | 9 | 325.11912 | * | 9 |
| 325.11113 | * | 9 | 325.11503 | * | 9 | 325.11913 | * | 9 |
| 325.11114 | * | 9 | 325.11504 | * | 9 | 325.11914 | * | 9 |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|-----------|--------|-------------------------------|-----------|--------|----------------------------|-----------|--------|-------------------------------|
| | | | | | | | | |
| 325.11915 | * | 9 | 325.12508 | * | 9 | 325.12819 | * | 9 |
| 325.11916 | * | 9 | 325.12509 | * | 9 | 325.12820 | * | 9 |
| 325.11917 | * | 9 | 325.12510 | * | 9 | 325.47801 | A | 13 |
| 325.11918 | * | 9 | 325.12601 | * | 9 | 325.50251 | A | 10 |
| 325.12101 | * | 9 | 325.12602 | * | 9 | 325.50252 | A | 10 |
| 325.12102 | * | 9 | 325.12603 | * | 9 | 325.50253 | A | 10 |
| 325.12103 | * | 9 | 325.12604 | * | 9 | 325.50254 | A | 10 |
| 325.12104 | * | 9 | 325.12605 | * | 9 | 325.50255 | A | 10 |
| 325.12105 | * | 9 | 325.12606 | * | 9 | 325.50256 | A | 10 |
| 325.12106 | * | 9 | 325.12701 | * | 9 | 325.50257 | A | 10 |
| 325.12107 | * | 9 | 325.12702 | * | 9 | 325.50258 | A | 10 |
| 325.12108 | * | 9 | 325.12703 | * | 9 | 325.50902 | A | 13 |
| 325.12109 | * | 9 | 325.12704 | * | 9 | 325.51004 | A | 13 |
| 325.12110 | * | 9 | 325.12705 | * | 9 | 325.51102 | * | 8 |
| 325.12301 | * | 9 | 325.12706 | * | 9 | 325.51103 | * | 8 |
| 325.12302 | * | 9 | 325.12801 | * | 9 | 325.51104 | * | 8 |
| 325.12303 | * | 9 | 325.12802 | * | 9 | 325.51105 | * | 8 |
| 325.12304 | * | 9 | 325.12803 | * | 9 | 325.51106 | R | 8 |
| 325.12401 | * | 9 | 325.12804 | * | 9 | 325.51108 | * | 8 |
| 325.12402 | * | 9 | 325.12805 | * | 9 | 325.70001 | * | 13 |
| 325.12403 | * | 9 | 325.12806 | * | 9 | 325.70002 | * | 13 |
| 325.12404 | * | 9 | 325.12807 | * | 9 | 325.70004 | * | 13 |
| 325.12405 | * | 9 | 325.12808 | * | 9 | 325.70015 | * | 13 |
| 325.12406 | * | 9 | 325.12809 | * | 9 | 325.70251 | A | 5 |
| 325.12407 | * | 9 | 325.12810 | * | 9 | 325.77102 | * | 6 |
| 325.12408 | * | 9 | 325.12811 | * | 9 | 325.77105 | * | 6 |
| 325.12501 | * | 9 | 325.12812 | * | 9 | 325.77107 | * | 6 |
| 325.12502 | * | 9 | 325.12813 | * | 9 | 325.77108 | * | 6 |
| 325.12503 | * | 9 | 325.12814 | * | 9 | 325.77109 | * | 6 |
| 325.12504 | * | 9 | 325.12815 | * | 9 | 325.77110 | * | 6 |
| 325.12505 | * | 9 | 325.12816 | * | 9 | 325.77111 | * | 6 |
| 325.12506 | * | 9 | 325.12817 | * | 9 | 325.77113 | R | 6 |
| 325.12507 | * | 9 | 325.12818 | * | 9 | 325.77114 | * | 6 |
| | | | | | | | | |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|------------|--------|-------------------------------|------------|--------|----------------------------|------------|--------|-------------------------------|
| | | | | | | | | |
| 325.77115 | * | 6 | 408.30443 | * | 8 | 408.30741c | * | 8 |
| 338.81 | A | 4 | 408.30445 | * | 8 | 408.30744e | * | 8 |
| 338.2503 | R | 12 | 408.30447 | * | 8 | 408.30754b | * | 8 |
| 338.10102 | R | 12 | 408.30448 | * | 8 | 408.30754c | R | 8 |
| 338.12003 | * | 8 | 408.30448d | * | 8 | 408.30749 | * | 8 |
| 339.15104 | R | 12 | 408.30449 | * | 8 | 408.30757 | * | 8 |
| 339.16004 | R | 12 | 408.30451c | * | 8 | 408.30758 | * | 8 |
| 339.17104 | R | 12 | 408.30453 | * | 8 | 408.30759a | R | 8 |
| 388.706 | * | 8 | 408.30457 | * | 8 | 408.30759b | R | 8 |
| 388.710 | * | 8 | 408.30458 | * | 8 | 408.30760 | R | 8 |
| 400.5103 | * | 7 | 408.30461 | A | 8 | 408.30761c | R | 8 |
| 408.4031 | * | 4 | 408.30475 | * | 8 | 408.30785 | * | 8 |
| 408.4038 | * | 4 | 408.30476 | * | 8 | 408.30786 | * | 8 |
| 408.30401 | * | 8 | 408.30495 | A | 8 | 408.30791 | * | 8 |
| 408.30402 | * | 8 | 408.30497 | A | 8 | 408.30793 | R | 8 |
| 408.30404 | * | 8 | 408.30499 | * | 8 | 408.30795 | R | 8 |
| 408.30405 | * | 8 | 408.30499a | R | 8 | 408.30795a | R | 8 |
| 408.30406 | * | 8 | 408.30501 | A | 8 | 408.30796 | R | 8 |
| 408.30408 | * | 8 | 408.30538 | A | 8 | 408.30901a | * | 8 |
| 408.30409 | * | 8 | 408.30701 | * | 8 | 408.30902a | * | 8 |
| 408.30410 | * | 8 | 408.30711 | * | 8 | 408.30903a | R | 8 |
| 408.30411 | * | 8 | 408.30712 | R | 8 | 408.30904a | * | 8 |
| 408.30412 | * | 8 | 408.30713 | R | 8 | 408.30905a | * | 8 |
| 408.30415a | * | 8 | 408.30714 | * | 8 | 408.30906a | * | 8 |
| 408.30427 | * | 8 | 408.30715 | * | 8 | 408.30907a | * | 8 |
| 408.30427a | R | 8 | 408.30716 | * | 8 | 408.30908a | * | 8 |
| 408.30427b | R | 8 | 408.30717 | * | 8 | 408.30909a | * | 8 |
| 408.30427c | R | 8 | 408.30718 | * | 8 | 408.30910a | * | 8 |
| 408.30427d | R | 8 | 408.30719 | * | 8 | 408.30915a | * | 8 |
| 408.30427e | R | 8 | 408.30720 | * | 8 | 408.30916a | R | 8 |
| 408.30429 | * | 8 | 408.30728 | * | 8 | 408.30918a | * | 8 |
| 408.30430 | * | 8 | 408.30735 | * | 8 | 408.30923a | * | 8 |
| 408.30432 | * | 8 | 408.30740a | * | 8 | 408.30924a | R | 8 |
| 408.30437 | * | 8 | 408.30740c | R | 8 | 408.30928a | * | 8 |
| | | | | | | | | |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

2001 MR 13

| R Number | Action | 2001 MR Issue Number | R Number | Action | 2001 MR Issue Number |
|------------|--------|-------------------------------|----------|--------|----------------------------|
| | | | | | |
| 408.30935a | * | 8 | 560.412 | A | 2 |
| 408.30936a | * | 8 | 560.413 | A | 2 |
| 408.30940a | R | 8 | 560.414 | A | 2 |
| 408.30995a | * | 8 | 560.415 | A | 2 |
| 418.10107 | * | 8 | 560.416 | A | 2 |
| 418.10108 | * | 8 | 560.417 | A | 2 |
| 418.10207 | * | 8 | 560.418 | A | 2 |
| 418.10404 | * | 8 | 560.419 | A | 2 |
| 418.101501 | * | 8 | 560.420 | A | 2 |
| 421.112 | * | 2 | 560.421 | A | 2 |
| 421.162 | * | 2 | 560.422 | A | 2 |
| 421.205 | * | 2 | 560.423 | A | 2 |
| 421.208 | * | 2 | 560.424 | A | 2 |
| 421.210 | * | 2 | 560.425 | A | 2 |
| 421.216 | * | 2 | 560.426 | A | 2 |
| 421.269 | A | 2 | 560.427 | A | 2 |
| 421.270 | * | 2 | 560.428 | A | 2 |
| 436.1527 | * | 7 | | | |
| 451.2303 | R | 12 | | | |
| 451.2304 | R | 12 | | | |
| 460.20606 | * | 5 | | | |
| 560.401 | * | 2 | | | |
| 560.402 | * | 2 | | | |
| 560.403 | * | 2 | | | |
| 560.404 | * | 2 | | | |
| 560.405 | * | 2 | | | |
| 560.406 | A | 2 | | | |
| 560.407 | A | 2 | | | |
| 560.408 | A | 2 | | | |
| 560.409 | A | 2 | | | |
| 560.410 | A | 2 | | | |
| 560.411 | A | 2 | | | |

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



**CUMULATIVE
INDEX**

A

AGRICULTURE, DEPARTMENT OF

Pesticide and Plant Pest Management Division

Regulation No. 628. Seed Potato Certification, R 285.628.1 - 285.628.14 (*2001-13)

Notice of Public Hearing (2001-13)

ATTORNEY GENERAL

Opinions

Ambulances, Emergencies, Hospitals, Public Health

Jurisdiction of medical control authority over emergency medical services

OAG 7072 (2001-2)

Correction 7072 (2001-4)

Correction 7072 (2001-10)

Annexation, Counties, Incompatibility, Public Officers and Offices, Villages

Incompatibility of Public Officers Act

OAG 7071 (2001-1)

Appropriations, Counties, Officers and Employees, Public Money, Register of Deeds

OAG 7076 (2001-5)

Bonds, Criminal Law, Police

* Proposed Rules

Police Department Imposing Fee for Receiving Court-ordered Bond
OAG 7070 (2001-1)

Campaign Finance Act, Elections, Municipal Corporations, Nonprofit Corporations, Public
Body, Public Money
OAG 7080 (2001-8)

Cities, Elections, Incompatibility, Public Employees, Public Offices and Officers
OAG 7085 (2001-13)

Counties, Firearms, Licenses and Permits, Open Meetings Act, Prosecuting Attorneys,
Public Body, Sheriffs
OAG 7073 (2001-2)

Elections, Municipalities, Villages
OAG 7081 (2001-8)

Freedom of Information Act
OAG 7083 (2001-11)

Hospitals, Nurses, Public Health
OAG 7084 (2001-12)

Insurance, Licenses and Permits, Preemption, Federal
OAG 7074 (2001-2)

Licensing and Regulation, Mechanics, Motor Vehicle Service and Repair Act
OAG 7082 (2001-11)

Mifepristone (RU-486) as Constituting an Abortion
OAG 7077 (2001-5)

Public Offices and Officers
OAG 7079 (2001-6)

Taxation
OAG 7078 (2001-6)

C

COMMUNITY HEALTH, DEPARTMENT OF

Certificate of Needs – Review Standards for Hospital Beds (2001-4)

Certificate of Needs – Review Standards for Hospital Beds (2001-9)

Certificate of Needs – Review Standards for Nursing Home and Hospital Long-Term-Care
Unit Beds (2001-9)

* Proposed Rules

Proposed Guideline - Patient Entitlements, 12-006-0001 and Representative Payee Resistance to Financial Liability Determination Process (2001-2)

Proposed Agency Guideline Rescission – Access to Facility/Program Records, 04-008-0002 (2001-3)

Proposed Agency Guideline Rescission – Health Legislation and Policy Development (2001-4)

CONSUMER AND INDUSTRY SERVICES, DEPARTMENT OF

Bureau of Construction Codes

Boilers, R 408.4001 - 408.4199 (2001-4)

Part 4. Building Code, R 408.30401 - 408.30499a (2001-8)

Part 6. Personal Protective Equipment, R 408.40601 - 408.40641 (2001-13)

Part 7. Plumbing Code, R 408.30701 - 408.30796 (2001-8)

Part 9A. Mechanical Code, R 408.30901 - 408.30998 (2001-8)

Bureau of Health Services

Chiropractic, R 338.12001 - 338.12014 (2001-8)

Controlled Substances, R 338.3101 - 338.3199q (*2001-5)

Notice of Public Hearing – (2001-5)

Bureau of Health Systems

Freestanding Surgical Outpatient Facilities, R 325.3801 - 325.3877 (*2001-2); (2001-10)

Notice of Public Hearing – (2001-2)

Psychology, R 338.2501 - 338.2514 (*2001-13)

Notice of Public Hearing (2001-13)

Bureau of Regulatory Services

Child Care Centers, R 400.5101 - 400.5940 (*2001-1); (2001-7)

Notice of Public Hearing (*2001-1)

Bureau of Safety and Regulations

General Industry Safety Standards Commission

General Industry Safety Standard Part 74 Firefighting, R 408.17401 - 408.17464 (*2001-11)

Notice of Public Hearing (2001-11)

Occupational Health Standards

MIOSHA

Abrasive Blasting, R 325.50251 – 325.50258 (*2001-1); (2001-10)

Benzene, R 325.77101 - 325.77115 (*2001-2); (2001-6)

Bloodborne Infectious Diseases, R 325.70001 - 325.70018 (*2001-6); (2001-13)

Chapter IV General Workplace Requirements, Part IV Medical and First Aid, R 325.47201 - 325.47201 (*2001-038)

* Proposed Rules

Bureau of Workers' Disability Compensation

Worker's Compensation Health Care Services, R 418.10101 - 418.10501 (*2001-2);
(2001-8)

Notice of Public Hearing – (2001-2)

Director's Office

Architects, R 339.15101 - 339.15403 (2001-12)

Barrier Free Design Board, R 125.1001 - 125.1026 (2001-12)

Declaratory Rulings, R 338.81 (2001-4)

Illumination, R 325.47801 – 325.50902 (*2001-9); (2001-13)

Mobil Homes, R 125.1101 - 125.3069 (2001-12)

Nursing, R 338.10101 - 338.10705 (2001-12)

Procedural Rules, R 451.2101 - 451.3503 (2001-12)

Professional Engineers, R 339.16001 - 339.16034 (2001-12)

Professional Surveyors, R 339.17101 - 339.17404 (2001-12)

Psychology, R 338.2501 - 338.2514 (2001-012)

Liquor Control Commission

Off-Premises Licenses, R 436.1401 - 436.1438 (2001-7)

Mortuary Science

General Provisions, R 399.18901 – 399.18930 (*2001-2)

Notice of Public Hearing – (2001-2)

Occupational Health Standards Commission

Air Contaminants, R 325.51101 - 325.51108 (2001-8)

Occupational Health Standards, R 325.70251 - 325.70251 (2001-5)

Public Service Commission

Uncollectibles Allowance Recovery Funds, R 460.2601 – 460.2625 (*2001-3)

Consumer Standards and Billing Practices for

Electric and Gas Residential Services, R 460.2101 - 460.2199 (*2001-3)

Notice of Public Hearing – (2001-3)

Gas Safety, 460.20606 (2001-5)

Telecommunication Services, (2001-13)

Notice of Public Hearing – (2001-13)

State Fire Safety Board

New and Existing Penal Institutions Fire Safety, R 29.601 - 29.622 (2001-5)

State-Owned and Leased Buildings Fire Safety, (2001-5)

Health Care Facilities Fire Safety, R 29.1001 - 29.1053 (2001-5)

Unemployment Agency

Employment Security, R 421.1 - 421.302 (2001-2)

* Proposed Rules

E

EDUCATION, DEPARTMENT OF

State Board of Educators

Identification of Students Eligible for Bilingual Education Funds,
R 388.701 - R 388.711 (2001-8)

Special Education Programs and Services, R 340.1701 - 340.1873 (*2001-5)
Notice of Public Hearing – (2001-5), (2001-7)

ENVIRONMENTAL QUALITY, DEPARTMENT OF

Air Quality Division

Air Pollution Control, R 336.1201 - 336.1299 (*2001-5)

Notice of Public Hearing – (2001-5)

Part 9. Emission Limitations and Prohibitions – Miscellaneous, R 336.1901 - 336-1942 (*2001-7)

Notice of Public Hearing – (2001-7)

Drinking Water and Radiological Protection Division

Public Swimming Pools, R 325.2111 - 325.2199 (2001-2)

Subdivisions of Land, R 560.401 - 560.405 (2001-2)

Supplying Water to the Public, R 325.10401 - 325.10420 (2001-9)

Environmental Response Division

Environmental Contamination Response Activity, R 299.5501 - 299.5519
(*2001-12)

Notice of Public Hearing – (2001-12)

Geological Survey Division

Oil and Gas Operations, R 324.101 - 324.1301 (2001-2)

EXECUTIVE OFFICE

Executive Orders

No. 1 Department of History, Arts and Culture (2001-10)

Office of Regulatory Reform

Correction Memorandum (2001-13)

H

COMMUNITY HEALTH, DEPARTMENT OF

Health Legislation and Policy Development

Access to Facility/Program Records, 04-08-0002 (2001-6)

* Proposed Rules

Patient Entitlements, 12-006-0001 and Representative Payee
Resistance to Financial Liability Determination Process, 12-004-0004 (2001-6)

N

NATURAL RESOURCES, DEPARTMENT OF

Law Enforcement Division

Regulation of Lands Administered by the DNR, R 299.291a – 299.932 (*2001-1)
Notice of Public Hearing – (*2001-1)

T

TREASURY, DEPARTMENT OF

Bureau of State Lottery

Lottery, R 432.1 - 432.38 (*2001-9)
Notice of Public Hearing – (2001-9)

Michigan Merit Award Board

Test Administration Ethics Procedure, R 390.1501 - 390.1525 (*2001-10)
Notice of Public Hearing (2001-10)